# The Carceral State and the Politics of Punishment

### Marie Gottschalk

Throughout American history, politicians and public officials have exploited public anxieties about crime and disorder for political gain. Over the past four decades or so, these political strategies and public anxieties have come together in the perfect storm. They have radically transformed US penal policies, spurring an unprecedented prison boom. Since the early 1970s, the US prisoner population has increased by more than six-fold (Manza and Uggen, 2006). Today the USA is the world's warden, incarcerating a higher proportion of its people than any other country. A staggering 7.2 million people – or 1 in every 31 adults – are either incarcerated, on parole or probation, or under some other form of state supervision (Glaze et al., 2010). These figures understate the enormous and disproportionate impact that this bold and unprecedented social experiment has had on certain groups in the USA. If current trends continue, one in three black males and one in six Hispanic males born in 2001 are expected to spend some time in prison during their lives (Bonczar, 2003).

The emergence and consolidation of the US carceral state is a major milestone in American political development that arguably rivals in significance the expansion and contraction of the welfare state in the post-war period. The carceral state now exercises vast new controls over millions of people, resulting in a remarkable change in the distribution of authority in favor of law enforcement and corrections at the local, state and federal levels. This explosion in the size of the prison population and the retributive turn in US penal policy are well documented. But the underlying political causes and wider political consequences of this massive expansion have not been well understood.

This is beginning to change. Since the late 1990s, the phenomenon of mass imprisonment has been a growing source of scholarly interest. Today the carceral state is a subject of increasing public interest. Indeed, *Wired* magazine included emptying the country's prisons on its 2009 'Smart List' of '12 Shocking Ideas that Could Change the World', and *Parade* magazine featured Sen. Jim Webb's (D-Va.) call to end mass incarceration on its front page (Webb, 2009).

In their attempts to identify the political factors that help explain why the USA has

the world's highest incarceration rate and locks up more people than any other country, scholars initially focused on political developments at the national level since the 1960s. More recently they have underscored the significance of political and institutional factors that pre-date the 1960s. Some of the most promising new research, which is discussed in more detail below, closely examines penal developments at the state and local levels.

The construction of such an expansive and unforgiving carceral state in the USA is a national phenomenon that has left no state untouched. All 50 states have seen their incarceration rates explode since the 1970s. But the state-level variation in incarceration rates is still enormous, far greater than what exists across the countries of Western Europe. Incarceration rates (including both the jail and prison populations) range from a high of over 1100 per 100,000 people in Louisiana to a low of about 300 per 100,000 in Maine (Pew Center on the States, 2009: 33). This great variation and the fact that crime control in the USA is primarily a local and state function, not a federal one, suggest that local, state and perhaps regional factors might help explain US penal policies.

Trying to unravel why the carceral state has been more extensive, abusive and degrading in some states than others is a blossoming area of research. The prison population edged downward in 24 states in 2009, but continued to grow in 26 others. That year the total state prison population declined for the first time in nearly four decades but the federal prison population increased by 3.4 percent (Pew Center on the States, 2010). Scholars have shown that differences in socioeconomic variables, demographic factors and/or crime rates help explain some of the state-by-state variation in incarceration and criminal justice policies (Hawkins and Hardy, 1989; Jacobs and Helms, 1996; Beckett and Western, 2001; Greenberg and West, 2001). Trying to account for the remaining variation, scholars have zeroed in on differences in the institutional and political context at the state level (Davey,

1998; Zimring et al., 2001; Domanick, 2004; Jacobson, 2005; Barker, 2009).

Some of the most promising new scholarship on the states has focused on the South and the Southwest. This work is upending the conventional narrative of the rise of the US penal system, with its emphasis on the northeast, notably New York and Pennsylvania. In the standard account, the foreboding penitentiaries of the 19th century, meant to restore wayward citizens to virtue through penitent solitude, evolved by fits and starts into the modern correctional bureaucracies of the 20th century that, at least for a time, viewed rehabilitating prisoners as a central part of their mission (Perkinson, 2010: 7). Lynch (2010), Schoenfeld (2009), Perkinson (2010), Campbell (2011) and others suggest that the history of punishment in the USA is more a Southern story than has been generally recognized. Notably, in much of the South and Southwest, the commitment to the 'rehabilitative ideal' appears to have been fragile and fleeting (Lynch, 2010).

The Great Recession has raised expectations that the USA will begin to empty its jails and prisons because it can no longer afford to be the world's warden.[1] The new state-level studies are a sober reminder that gaping budget deficits will not necessarily reverse the prison boom because a penal system is not only deeply embedded in a state's budget but also in its political, cultural, institutional and social fabric. These more fine-grained state-level case studies suggest that some states may be better able than others to reduce their prison populations in the future.

The wider political consequences of the carceral state are another new and expanding area of scholarly and public interest. Evidence suggests that having such a large penal system embedded in a democratic polity has enormous repercussions that reverberate throughout the political system and beyond. The carceral state has grown so huge in the USA that it has begun to metastasize and warp fundamental democratic institutions, everything from free and fair elections

to an accurate and representative census. Furthermore, the emergence of the carceral state has helped to legitimize a new mode of 'governing through crime' that has spread well beyond the criminal justice system to other key institutions, including the executive branch, schools and the workplace (Simon, 2007).

Mass imprisonment within a democratic polity and the hyper-incarceration (Wacquant, 2008) of certain groups are unprecedented developments. The consolidation of this new model in the USA raises the question: Is this country exceptionally vulnerable to get-tough polices, or will other countries follow the USA down the same punitive path? Two decades ago there was next to no comparative literature on crime control and penal policy (Tonry, 2007). Since then scholars have begun to identify certain distinctive cultural, historical, constitutional, institutional and political factors that may render some countries more susceptible to get-tough policies.

The growing recognition that the enormous carceral state is a pressing economic, political and social problem has spurred interest in the politics of reversing the prison boom. Understanding what brought about major decarcerations in the past is a new frontier in research. So is understanding the constellation of interest groups and social movements that might successfully push to reverse the prison boom.

This essay first surveys work on the deeper political, institutional, and historical origins of the carceral state. It then turns to the new state-level scholarship on mass incarceration. After that, it examines some of the wider political consequences of the carceral state, including its impact on elections and political participation, the emergence of new conceptions of citizenship, the criminalization of immigration policy, the relationship between the carceral state and the welfare state and the phenomenon of 'governing through crime'. It concludes with a brief survey of new work on political resistance to mass incarceration and a discussion of the comparative politics of penal policy.

## THE DEEPER ORIGINS OF THE CARCERAL STATE

Until recently, scholars of the carceral state generally adopted a truncated timeframe as they sought to identify what changed in the USA beginning in the 1960s to disrupt its generally stable and unexceptional incarceration rate and to bring back capital punishment with a vengeance. The main political explanations included: an escalating crime rate and related shifts in public opinion (Wilson, 1975: xvi; Dilulio, 1997; Ruth and Reitz, 2003); the war on drugs (Caplow and Simon, 1999: 92–3; Gordon, 1994; Tonry, 1995; Provine, 2007); the emergence of the profitable prison-industrial complex (Abramsky, 2007: ch. 6; Burton-Rose et al., 1998; Dyer, 2000; Sarabi and Bender, 2000; Hallinan, 2001); structural changes in American culture and society with the coming of late modernity (Garland, 2001); politicians playing the 'race card' by invoking the law-and-order issue for electoral gain (Edsall and Edsall, 1991; Beckett, 1997; Davey, 1998; Zimring et al., 2001; Flamm, 2005; Western, 2006: 58–62, 67–73); and the collapse of the urban labor market for unskilled men due to deindustrialization and globalization (Parenti, 1999; Western, 2006).

These contemporary factors are critical to understanding the origins of the carceral state. But accounts that stress recent developments seem to suggest that this major expansion of the state and radical shift in public policy have shallow roots. Yet contemporary penal policy actually has deep historical and institutional roots. Both state capacity to incarcerate and the legitimacy of the federal government to handle more criminal matters were built up slowly but surely well before the incarceration boom that began in the 1970s.

A number of historically embedded institutional developments laid the foundation for the construction of the carceral state (Gottschalk, 2006). These include, to list some of the most important ones, the historical underdevelopment of the US welfare

state; the early establishment of an extensive network of rights-based and other public interest groups stretching back to the 1920s that helped lodge capital punishment in the courts, not the legislature; the exceptional nature of the origins and development of the public prosecutor in the USA; and the country's long history of morally charged crusades that helped build up the law enforcement apparatus by fits and starts.

In addition to these early institutional developments, a variety of other factors with deep historical roots need to be understood in order to trace the origins of the carceral state (Tonry, 2011). For example, the much-heralded 'liberal' features of American political culture may have contributed to making the US penal system harsher, more degrading, and less forgiving (Whitman, 2003). In the absence or rejection of an aristocratic political culture and society, prisons in the USA historically have been rooted in extending a brute egalitarianism that subjects all prisoners, regardless of their social or political status, to 'low status,' dehumanizing treatment, Whitman suggests. By contrast, waves of penal reform in Germany and France often entailed 'leveling up', or extending the penal and legal privileges enjoyed by political prisoners and incarcerated aristocrats to other offenders.

The conventional characterization of the last four decades as the country's first real 'law-and-order' era, when issues of crime and punishment were nationalized and politicized for the first time in US history, is incorrect. Law and order was a recurrent and major theme in American politics long before the 1960s and long before the modern Republican Party strategically wielded this issue to achieve national political domination. The USA had an early identity as a convict nation (Christianson, 1998: 13). Penal concerns informed broader debates about republicanism, utilitarianism, and law and order during the founding decades (Dumm, 1987; Masur, 1989; Rothman, 1990; Hirsch, 1992; Meranze, 1996; Pestritto, 2000). Disagreements over the establishment

of the penitentiary were deeply entangled with disputes over slavery and abolition in the antebellum years (Hindus, 1980; Ayers, 1984; Hirsch, 1992). After the Civil War, the convict-lease system was pivotal in the politics of Populism, Progressivism, race relations and the economic development of the South (Carleton, 1971; Fierce, 1994; Walker, 1988; Lichtenstein, 1996; Mancini, 1996; Oshinsky, 1996; Myers, 1998; Shapiro, 1998; Curtin, 2000; Blackmon, 2008; Perkinson, 2010). Penal labor was a leading issue for organized labor and a central feature in electoral politics in the mid-to-late 19th century and early 20th century (McLennan, 2008). During the 1930s, Franklin D. Roosevelt and his attorney general Homer Cummings shrewdly and quite successfully exploited sensational crimes, most notably the Lindbergh kidnapping, to advance their broader agenda of extending federal jurisdiction into crime control (Cummings and McFarland, 1937: 482; Alix, 1978: 90–1; O'Reilly, 1982: 640–5; Simon, 2007: 47–9).

The construction of the carceral state also complicates our understanding of the role of race in American political development. The creation of the carceral state was not merely the latest chapter in a book that began with slavery and moved on to convict leasing, Jim Crow, and the ghetto to control African-Americans and other 'dangerous classes'. While there are similarities between these social control institutions, it is important not to flatten out their differences and the differences in the political, institutional, and economic context that created and sustained them. Treating these institutions as one and the same minimizes the unprecedented nature of the incarceration boom in the USA since the 1970s. For all the horrors of the convict-lease system, relatively few blacks were subjected to it in the decades following the Civil War, though many more feared it. Today's incarceration rate of approximately 5000 per 100,000 African-American males dwarfs by far the number of blacks imprisoned in the South under convict leasing (Gottschalk, 2006: 269, n. 42;

West and Sabol, 2009: 18). An African-American man with a felony conviction today scarcely has 'more rights, and arguably less respect, than a black man living in Alabama at the height of Jim Crow', according to Michelle Alexander. 'Once you're labeled a felon, the old forms of discrimination – employment discrimination, housing discrimination, denial of food stamps and other public benefits, and exclusion from jury service – are suddenly legal', she explains (2010: 2).

The country's racial divide both thwarted and facilitated the establishment of the carceral state. For much of US history, racial, ethnic and regional divisions periodically acted as a check on the development of criminal justice institutions, especially at the federal level, even as they fueled popular passions to criminalize certain behaviors and certain groups. The moral crusades over issues like 'white slavery', Prohibition and juvenile delinquency that regularly convulsed the country were a backhanded way of building up the criminal justice apparatus by fits and starts (Morone, 2003; Gottschalk, 2006: ch. 3). Once Jim Crow came tumbling down in the postwar decades, the path was clearer for the rapid development of the criminal justice system, which today disproportionately incarcerates African-Americans.

Recent scholarship on the carceral state and the civil rights movement underscores this point. The conventional view of the origins of the contemporary law-and-order era is that rising crime rates in the 1960s prompted national leaders, most notably presidential candidates, to address the issue of street crime. This provided an opening for the Republican Party, beginning with Barry Goldwater in 1964, to undermine the New Deal liberal coalition by making appeals to law and order that were really thinly veiled racialized appeals to white voters. But new research provides a much more nuanced account of how racial politics got funneled through criminal justice policies. Politicians so readily identified today as penal hardliners, such as Richard Nixon, Ronald Reagan

and even segregationist Lester Maddox of Georgia, did not immediately march in lock step toward the prison and the execution chamber after Goldwater denounced the 'growing menace' to personal safety in his electrifying speech before the Republican convention in 1964 (Gottschalk, 2006: 10, 213–24, 234). Nor did these public officials single-handedly impose the carceral state.

It now appears that the construction of the carceral state was a deeply bipartisan project from early on. Conservative congressional Democrats began strategically wielding the street crime issue in the 1950s, well before crime rates began to escalate and leading Republicans took up the charge (Murakawa, 2005: 81–2). Southern conservatives initially cast their opposition to major civil rights legislation in criminological terms, arguing that 'integration breeds crime' (Murakawa, 2005: 82). As riots broke out in major cities across the country in the mid-to-late 1960s, they reformulated the connection between civil rights and crime, working 'vociferously to conflate crime and disobedience, with its obvious extensions to civil rights' (Weaver, 2006: 29).

This was a doctrine not just of words but also of deeds. Conservative southern Democrats shrewdly used civil rights bills as vehicles to stiffen and broaden criminal penalties. These add-ons to civil rights legislation experimented with certain sanctions that later became the central features of the major federal and state-level crime bills of the 1980s and 1990s, including stiff mandatory minimums, denial of federal benefits to people convicted of certain felonies, and sentencing enhancements for vaguely and capaciously defined violations, like rioting (Weaver, 2006: 27–8). Many urban white voters in the North initially maintained a delicate balancing act on the civil rights issue. While they opposed racial integration at the local level, they supported national candidates who were pro-civil rights. This split political personality became less tenable as crime and disorder 'became the fulcrum points at which the local and national

intersected' (Flamm, 2005: 10), thus weakening the New Deal coalition.

The significance of race in unsettling the New Deal coalition and building the carceral state has long been recognized, if not always well understood. By contrast, gender is just beginning to be recognized as an important contributing factor to more punitive policies and mass imprisonment. New scholarship reveals that politicians of all stripes, including Goldwater, George Wallace, Lyndon Johnson, Richard Nixon, George H.W. Bush and Bill Clinton, strategically used highly gendered appeals related to crime and punishment to further their political and electoral agendas (Flamm, 2005: 42, 45, 51, 178; Bosworth, 2010). They promulgated the politically potent – but highly misleading – image of white women, preyed on by strangers, as the most likely victims of violent crime. But leading politicians were not the only culprits in feminizing the crime issue.

Women's groups and feminists in the USA have a long and conflicted history on issues related to crime, punishment, and law and order. Periodically, they have played central roles in defining violence as a threat to the social order and pushing for more enhanced policing powers to address law-and-order concerns (Gottschalk, 2006: chs 5 and 6). The women's reform movements and waves of feminist agitation that have appeared off and on since the 19th century in the USA helped to construct institutions and establish practices that bolstered stridently conservative tendencies in penal policy. For example, because of stark differences in the historical and institutional context, demands by women's groups in the 1970s and 1980s to address the issues of rape and domestic violence had more far-reaching penal consequences in the USA than other countries where burgeoning women's movements also identified these two issues as central concerns.[2] As a consequence, the women's movement helped facilitate conservative law-and-order politics in the USA but not Europe.

To sum up, the carceral state has become a key governing institution in the USA. Its construction has deep historical and institutional roots. Contrary to the popular view, law and order has been a central, not incidental, issue in national and local politics for much of US history. Struggles over penal policy and punishment have had 'important and lasting consequences' for 'the structure and legitimating fictions of American social order more generally' (McLennan, 2008: 3). Political elites in the USA have a long history of raising law-and-order concerns in an attempt to further their own political fortunes. And Americans have a long history of periodic intense anxiety about crime and disorder. Yet only recently have these concerns and anxieties resulted in such a dramatic and unprecedented transformation of penal policies in such a punitive direction. By understanding the deeper institutional and political context, we can begin to grasp why elite political preferences for a war on crime premised on a massive expansion of the penal system triumphed beginning in the 1960s despite public opinion polls persistently showing that public sentiment on crime and punishment was quite fluid.

## THE CARCERAL STATE AT THE STATE AND LOCAL LEVELS

Among the many political questions about what propelled the turn to mass incarceration, one in particular remains central: why were law-and-order conservatives able to launch an expensive prison-building spree that spanned decades even though the burgeoning conservative movement they spearheaded was premised on fiscal conservatism and rolling back the public sector? New case studies of the development of penal policy at the state level are beginning to unravel this puzzle. This research identifies some common factors that help explain what propelled the prison boom at the state level, as well as some differences that account for variations

in the timing, extent and nature of the punitive turn among the states.

One of the most puzzling cases is California, which was a trailblazer for the 'rehabilitative ideal' in the 1940s and 1950s and ground zero for the taxpayer revolt of the 1970s and 1980s. With passage of Proposition 13 in 1978, which capped property taxes and deprived municipal governments of key revenues, California faced growing opposition to tax increases and expansion of the public sector. Nonetheless the Golden State has been able to build approximately two-dozen prisons (at a cost of about US$280–350 million each) since 1982. This is twice as many as it constructed in the first century after statehood. California also added about two-dozen smaller penal facilities (Gilmore, 2007: 7–8). Over the last quarter century, spending on corrections has quadrupled in California, jumping from 2 to 8 percent of the general fund (Gilmore, 2007: 8–10). Even in the face of fiscal Armageddon and a federal court decision declaring that the state's overcrowded, underfunded penal system is unconstitutional (which was upheld in May 2011 by a divided US Supreme Court in *Brown* v. *Plata*), California has been unable to agree on a plan to shrink its penal population significantly.

In California and other Western (Edgerton, 2004) and Southern states, the postwar establishment of statewide departments of corrections to oversee their penal facilities, which had been run largely as independent, patronage-ridden fiefdoms, was a critical development. This gave states the capacity for the first time to develop integrated penal systems, pursue large-scale prison construction schemes, and respond to national trends in penal policy, if lawmakers chose to do so. When legislators sought to build up their penal capacity, they often enacted measures that exempted their departments of corrections from key oversight, budgeting and financial rules that applied to other state agencies.

In the case of California, the legislature reorganized its statutory relationship with the California Department of Corrections (CDC) in 1982 by forming the Joint Legislative Committee on Prison Construction and Operations (JLCPCO). This reorganization plan inured the CDC from the longstanding bidding and budget practices required of other state agencies. The creation of the JLCPCO also ensured that elected officials vulnerable to the powerful sway of law-and-order politics would be closely and publicly monitoring the CDC's activities. Moreover, the JLCPCO was required to hold public hearings, which provided the CDC with a highly visible platform to promulgate dire projections about an imminent prison-overcrowding crisis and to promote a vast expansion in the state's penal system. A dramatic increase in the CDC's planning capacity allowed the agency, beginning in 1984, to produce alarmist five-year master plans (Gilmore, 2007: 96).

These predictions, however dire, would not be enough to neutralize rising public reluctance to pay for more state services, especially prisons. With the shadow of Proposition 13 looming over them, legislators and other state officials were increasingly doubtful that taxpayers would support new prison bond packages at the polls. With the help of the state's financial sector, California turned to lease-revenue bonds (LRB's) as a backdoor way to fund new prison construction that allowed legislators and corrections administrators to maneuver around anti-tax sentiment.

LRB's skirted states' balanced budget rules, as well as requirements that voters must ratify new government bond projects. They originally were designed to provide financing for projects that could generate enough revenue over time to pay for themselves. LRB's typically had been used to finance items like mortgages for veterans and farmers and construction loans for hospitals, colleges and universities. In a creative sleight of public financing, money that corrections departments would use to 'pay back' the LRB's was considered 'revenue' even though it came from general fund appropriations

authorized to the corrections department by the legislature in the annual operating budget.

These revenue bonds became a popular way to finance new prison construction in California and elsewhere beginning in the mid-1980s. Prior to that, new prisons had to be funded either on a pay-as-you-go basis out of general revenue funds or by borrowing money through the sale of government bonds sanctioned by taxpayers through bond referendums (Pranis, 2007: 37). By 1996, more than half of all new prison debt was in the form of LRB's, which tend to be more expensive than straightforward state bond sales (Pranis, 2007: 38). The new-fangled LRB's allowed the huge costs of the prison build-up and the budgetary trade-offs they necessitated (notably the conspicuous drop in public funding for higher education) to stay obscured from public view. And LRB's could be quickly organized and issued. In less than a decade, California's state debt for prison construction exploded from about 4 percent to over 16 percent of the state's total debt for all purposes (Gilmore, 2007: 101).

The CDC has been extremely inept at managing what goes on inside its prisons and the other facilities of its vast penal empire, in part because of organized resistance from the powerful prison guards' union and contract provisions that give the guards enormous latitude on the job (Page, 2011b: ch. 7). However, the department has been highly capable when it comes to building more prisons. Like corrections departments in many other states, the CDC pushed prison construction as a key tool of rural economic development. The CDC's Prison Siting Office was extremely effective at persuading economically distressed communities that a new prison in their midst would bring them an economic windfall. The office strategically targeted rural communities, figuring they would be an easier sell than urban areas after the CDC became embroiled in a nasty fight with community and religious groups who opposed building a new lockup in an East Los Angeles neighborhood (Gilmore, 2007).

California's massive prison expansion entailed a massive expansion of the corrections workforce at just the time that the scrappy prison officers' association, which originally resembled a social club or fraternal organization, was transforming itself into a powerful, militant and fiercely independent union (Page, 2011b). Under forceful and savvy leadership, the California Correctional Peace Officers Association (CCPOA) set out in the 1980s to capitalize politically and financially on the prison boom already underway to assure that the boom did not lose its momentum. Wielding its financial largesse, the union rewarded allies with generous campaign contributions and punished foes with well-funded primary challengers and disparaging and mean-spirited public attacks. It almost single-handedly created the powerful victims' rights movement in the Golden State that has pushed so hard for more punitive legislation, including the toughest three-strikes law in the country. The union deployed its political resources to create the 'specter of the CCPOA' – an image of a 'ruthless, unpredictable and powerful labor organization' (Page, 2011b: 65). It successfully framed the union's interests in terms of the public good and reached out to minority groups by celebrating diversity (but only once the union had more Hispanic, black and female members) and by funding ethnic- and gender-based criminal justice organizations and political action committees.

The CCPOA also framed its actions in highly charged moral terms. It portrayed prison guards as the frontline in an epic battle between good and evil, hence the union's longstanding motto, 'The Toughest Beat in the State'. Subtly and not so subtly, the union exploited negative racial stereotypes. It charged that inmates in the state's prisons were the worst of the worst and beyond redemption. One of its public relations videos portrayed typical California inmates, in the words of Page, as 'big, black, brutish gang members armed with homemade shanks' who hunt 'their prey: prison officers' (2011b: 81).

The CCPOA's political savvy and the financial sector's underwriting savvy do not on their own explain why California succeeded in launching a massive expansion of the public sector despite rising fiscal conservatism and anti-tax sentiment. Drawing on key insights from Vanessa Barker's (2009) comparative study of the development of penal policy in California, New York and Washington State, Page argues that the Golden State's political culture and institutions have rendered it especially vulnerable to the siren call of law-and-order politics. California's 'neopopulist political culture and institutions', most notably its ballot initiatives and its relatively low levels of civic engagement, helped foster the CCPOA's disproportionate influence, according to Page (2011a).

Like California, Arizona is another Sunbelt state that has been a main cauldron of the ascendant conservative movement premised on fiscal conservatism and disdain for the public sector. Nonetheless it, too, embarked on a huge, costly penal expansion. Home to Barry Goldwater, fiscal frugality has long been the 'guiding principle of all government endeavors in Arizona' (Lynch, 2010: 25). For its entire history until the late 1970s, Arizona had doggedly resisted making a big investment in new penal facilities (Lynch, 2010: 111). Yet between 1971 and 2000, the state's incarceration rate increased nearly sevenfold, going from a stable and minuscule 75 per 100,000 (a rate comparable to that of the Scandinavian countries today) to more than 500 per 100,000. Spending on corrections skyrocketed, escalating from 4 percent of the general fund in 1979 to nearly 11 percent in 2003 (Lynch, 2010: 171). As the prison population grew, the department of corrections solidified its position 'as one of the largest and most politically influential state agencies in Arizona' (Lynch, 2010: 172).

Lynch portrays the embrace of the carceral state in Arizona as largely a top-down phenomenon. Until the 1950s, Arizona looked like a traditional one-party Southern state dominated by conservative Democrats.

Beginning in the 1960s, the state became more politically competitive as right-leaning Republicans made serious electoral inroads and pockets of progressive Democrats challenged the party's old guard, especially in more urbanized areas. This new political competition set the stage for the hyper-politicization of penal policy, as the 'practical, collaborative' style of lawmaking yielded to more 'symbolic, partisan-based' legislating (Lynch, 2010: 113). Legislators and state officials generally did not retreat from their hard line even in the face of reports from the department of corrections and elsewhere predicting that the proposed harsh sentencing regime would necessitate a massive increase in spending on corrections or that the vast prison expansion had had no measurable impact on the state's crime rate (Lynch, 2010: 95, 149).

As in the case of California, legislators and governors instigated the prison boom but other groups mobilized subsequently to spur it on. Unlike in California, victims' rights groups and unionized prison guards did not propel the boom. Law enforcement officers, notably prosecutors and sheriffs who shrewdly used the media, played a key role in Arizona. They mobilized to defend and extend the harsh sentencing regime imposed in the 1970s and helped scuttle major prison reform proposals in the early 1990s to reduce the incarcerated population as severe economic distress gripped the state. Instead, the reform efforts of the early 1990s morphed into yet another round of get-tough legislation (Lynch, 2010: 155). At the time, leading state officials were so committed to punitive segregation that the governor and director of corrections even supported turning down a private grant awarded to develop alternatives to incarceration (Lynch, 2010: 165).

Several factors helped neutralize or deflect concerns about how the huge size and growing expense of the penal system were at odds with Arizona's historical commitment to frugality and a limited public sector. Administrators and state officials stressed how the state's penal system was 'cheap and

mean' (Lynch, 2010: 213). At every opportunity they underscored their frugality. '[T]he commitment to frugality spilled over as an expressive value to administrative operations,' explains Lynch. 'So even when *actual* spending was profligate … such expenditures were sold politically to the populace as both necessary and cost-efficient' (2010: 213, original emphasis).

In their public statements and in the annual reports of the department of corrections, state officials celebrated cost saving measures like reducing the use of heat and air-conditioning in prisons, leveling more fees on inmates and their families, purchasing 'seconds' of damaged or old food from wholesalers, and cutting off the electricity on cellblocks during the day. They even heralded the cost savings to be had by the conversion of the Death House to accommodate lethal injection (Lynch, 2010: 142). Joe Arpaio, sheriff of Maricopa County since 1993, boasted how he spent only 20 cents a day feeding inmates in his jails, thanks in part to his infamous 'green bologna' (Lynch, 2010: 164). State officials also stressed the exploitation of penal labor to save money, noting that farming industries were run almost entirely by prison labor, and that all prison construction projects were required by law to use inmate labor (Lynch, 2010: 129). To make the point that programming for inmates was useless, one director of corrections in Arizona noted that Minnesota spent twice as much per inmate yet had a recidivism rate comparable to Arizona's (Lynch, 2010: 173). In its annual reports, Arizona's department of corrections 'prided itself on spending significantly less than the national average on inmates' (Lynch, 2010: 172). This deflected attention from the fact that as of 1999 Arizona 'ranked among the top three states in the nation in terms of the proportion of the state budget allocated to corrections' (Lynch, 2010: 171).

Lynch chronicles the origins and development of get-tough policies in Arizona and suggests this state has become a national trendsetter in meting out harsh punishment.

The rehabilitative ideal never really took root in Arizona, partly because of the state's historic reliance on the widespread use of corporal punishment, degrading rituals and paramilitary style discipline in its jails and prisons. Whenever outsiders were recruited to run Arizona's penal system, they generally faced fierce resistance to importing new ideas like rehabilitation and the more humane treatment of prisoners, as did outsiders selected to helm the penal systems of other states, notably Florida and Texas (Schoenfeld, 2009; Perkinson, 2010).

As spending for corrections skyrocketed in Arizona, state officials emphasized how they were toughening up life behind bars for inmates. Arizona became a leader in not only incarcerating its citizens but also in pioneering the widespread use of supermax prisons and humiliating and degrading punishments like chain gangs. Beginning in the mid-1990s, prison guards routinely deployed pepper gas and Israeli foggers on inmates. In 1997, the director of corrections authorized the use of attack dogs in cell extractions. The dogs were trained to bite and hold on as the inmate was pulled from his cell by an animal attached to a 30-foot leash (Lynch, 2010: 169). This increasingly punitive approach faced little resistance from any constituencies with political power in Arizona (Lynch, 2010: 170).

State officials in Arizona attacked the reputed 'good life' in prison by requiring inmates to do a stint of hard labor during their confinement and by imposing new restrictions on clothes, grooming, personal items, visitors and compassionate leave (Lynch, 2010: 128). Alleged luxuries like television, weight-lifting equipment, access to the courts, and even suntan lotion for inmates working in the blazing Arizona sun came under attack. As in the case of California, Arizona's legislators moved to exempt the state's department of corrections from key rules that applied to other state agencies, including a requirement that the state give notice and hold public hearings on all major changes in rules and practices. This change

'contributed to the acceleration of the flagrant punitiveness of Arizona prisons' (Lynch, 2010: 140).

Arizona's department of corrections and governor's office doggedly fought to dismantle the limited federal protections the courts had extended to prisoners beginning in the 1960s. State officials demonized federal judges and other officials and groups who attempted to intervene in the operation of the penal system. They kept the public focus on states' rights issues and on allegations of excessive federal intrusion. State officials raged that Arizona's prisons had become such a fiscal burden because of onerous and intrusive federal regulation and oversight of the state's penal system. They also blamed federal permissiveness to inmate lawsuits. Their withering attacks on Washington and the federal judiciary obscured the fact that the prison boom in Arizona had radically increased the power of the state government, the size of the public sector, and the fiscal burden of the penal system.

In the late 1970s and early 1980s, the state scrambled to comply with federal consent decrees concerning overcrowding and other violations. By the mid-1980s or so, the governor, the head of the department of corrections and other state officials took a 'new oppositional stance' to prisoner lawsuits and federal oversight (Lynch, 2010: 180). The department of corrections openly defied earlier decrees in the name of budgetary constraints and aggressively sought to overturn a landmark court decision extending prisoners' rights. Arizona's 1996 Supreme Court victory in *Lewis* v. *Casey*, which significantly curtailed the rights established in the 1977 *Bounds* v. *Smith* decision, emboldened state officials (Lynch, 2010: 186). The state refused to pay special master's fees in federal consent decrees and challenged them in the courts. It denied the federal Department of Justice access to state prisons to investigate charges of widespread employee sexual misconduct involving prisoners (Lynch, 2010: 197). State officials in Arizona provided the legislative blueprint and crucial

political momentum to propel the Prison Litigation Reform Act through the US Congress in 1996. This measure greatly restricted inmates' access to the courts to challenge their conditions of confinement. In short, Arizona was a 'trailblazer that ultimately reshaped the national landscape of prisoner litigation' (Lynch, 2010: 203), as were Texas (Perkinson, 2010) and Florida (Schoenfeld, 2009).

The gains of prisoner litigation in Arizona and elsewhere were extremely limited. After some initial victories, a backlash was in full force by the late 1980s. State officials faced little resistance because of the absence of organized pressure from the grass-roots to behave differently (Lynch, 2010: 217). Few organizations in Arizona were willing and able to challenge the erosion of prisoners' rights. Most of the push to defend prisoners' rights came from outside the state, notably the US Department of Justice and the national office of the American Civil Liberties Union (ACLU).

Lynch (2010), Perkinson (2010) and others suggest that Arizona, Texas and other Sunbelt states are the forerunners of a leading alternative model of criminal justice premised on maximum control at minimum cost with little outside oversight. Never very attached to the rehabilitative model to begin with, they became the crucibles for get-tough innovations like three-strikes laws, boot camps, the widespread use of solitary confinement through supermax cells, the revival of chain gangs, the exploitation of penal labor and an uncompromising defiance of federal intervention and oversight.

Perkinson (2010) draws much needed attention to the case of Texas, which operates the country's largest state prison system, imprisoning today more people than Germany, France, Belgium and the Netherlands combined. Like Arizona, Texas stands out not just for the sheer number of people under state control but also for the persistently brutal and inhumane conditions of their confinement. In graphic and often disturbing detail, Perkinson chronicles the many ways punishment

repeatedly has been used in Texas 'to assert supremacy and debase prisoners' since the state built its first penitentiary in 1848 (Perkinson, 2010: 129).

In Texas, as in Arizona, rehabilitation was largely treated as a fad. It took a backseat to maintaining maximum control of inmates through surveillance, censorship, fierce staff solidarity, widespread use of solitary confinement and relentless self-promotion of the Texas control model (Perkinson, 2010: 237). State officials also sought to exploit inmate labor to make prisons and penal farms as productive as possible because, as George J. Beto, the director of the Texas Department of Corrections, told the American Correctional Association in 1970, 'the tax-conscious constituent will demand it' (Perkinson, 2010: 235). Perkinson argues that Texas developed an alternative 'control model' of punishment that was unapologetically premised on officially sanctioned violence, strident exploitation of penal labor, a strong retributive urge and stark racial stratification. He identifies slavery as the progenitor of the state's control mode. For well over a century now, Texas has operated a vast archipelago of self-sustaining penal labor farms on the old plantation lands of East Texas. These farms are 'probably the best example of slavery remaining in the country,' according to a national corrections expert (quoted in Perkinson, 2010: 6).

Suspicious of large state projects, Texas, like much of the South, was initially slow to embrace the penitentiary in the 19th century. Fearful that these large public buildings would become 'vampire[s] upon the public treasury', government officials in Texas and elsewhere sought to make their penal enterprises not just self-sustaining but also highly profitable (Perkinson, 2010: 73). Over the years, state officials were obsessed with turning a profit out of penal labor. Texas's first penitentiary, a fortress erected in Huntsville that is still known as 'The Walls' today, was the state's premier public institution, consuming nearly 17 percent of the state's budget in its first year. In the 1850s, the state constructed a massive cotton mill

run by penal labor inside 'The Walls' that became the state's largest factory by far. During the Civil War this mill was a main source of tents, uniforms and supply bags for the Confederacy. Imperial Sugar Co., today the largest sugar refinery in the USA, was established with slave capital after the Civil War. Convicts leased from the state built the refinery and supplied it with sugar grown at Sugar Land, a massive estate established outside of San Antonio after the war.

The evolution and growth of Texas's penal system 'has had surprisingly little to do with crime' and much to do with 'America's troubled history of racial conflict and social stratification', Perkinson (2010: 8) contends. As segregationist barriers like slavery and Jim Crow fell, new ones like for-profit convict leasing and later the Texas 'control model', with its stress on maximum discipline and maximum profit, took their place. Prisons have proliferated in Texas and elsewhere despite their breathtaking human costs and minimal effect on crime control because 'they excel in other, generally unspoken ways, at dispersing patronage, fortifying social hierarchies, enacting public vengeance, and symbolizing government resolve' (Perkinson, 2010: 10).

One notable difference between Arizona and Texas is that the failures and abuses of the Lone Star State's penal system have periodically spurred reform movements since the 19th century. The most successful penal reform movements in Texas over the last century and a half did not act in isolation but were buoyed by other social movements. Once these reform movements sputtered out, they often left behind different but arguably no less brutal systems of punishment and confinement. The Populists of the late 19th century were pivotal players in the push to end convict leasing in Texas and elsewhere in the South. After a half-century of public agitation over the corruption and horrors associated with leasing convicts to private, for-profit firms, Texas outlawed this practice. Brutal state-controlled chain gangs and penal labor farms took its place. Women's groups

linked to the Progressive movement sought to end sexual abuse and other atrocities in Texan prisons and on its penal farms. They played a vital role in the election of Governor Dan Moody, who launched a far-reaching but short-lived penal reform agenda in the late 1920s that was inspired by experiments with rehabilitation in the North in places like Sing Sing, Auburn and Bedford Hills (Perkinson, 2010: 189–90, 197–8). A colossal bribery scandal in 1972 opened the way for an influx of progressive reformers into the Texas legislature who pursued a short-lived penal reform agenda in the late 1970s and early 1980s that helped stave off a penal expansion.

The prison boom was slower to take off in Texas than Arizona or California. It was not until the early 1990s that the Lone Star State's incarceration rate leapfrogged ahead of California's and the rest of the South's (Campbell, 2011). In a familiar story, as Republicans made electoral inroads in the state in the 1980s and as old guard Democrats vied with pockets of progressive Democrats, the stage was set for the hyper-politicization of penal policy in a retributive, law-and-order direction. Governor William P. Clements, who in 1978 became the first Republican to lead the state since Reconstruction, sought to solidify his political base by mobilizing law enforcement groups on behalf of a more punitive agenda (Campbell, 2011). His tools included targeted mailings, a media campaign, crafty lobbying and strategic appointments to powerful quasi-government anti-crime commissions and task forces that generally excluded representatives from high-crime communities, supporters of alternatives to incarceration, and even victims' rights groups (Campbell, 2011).

Clements's successor, Democrat Mark White, attempted to use early release programs to manage the state's overcrowding crisis. But the media and the newly mobilized law enforcement community, notably the professional associations for the sheriffs, the police and especially the state's district attorneys, vilified him for doing so.

He received no credit for the drop in the state's incarceration rate, which coincided with the first decline in serious crime in Texas in years. When Clements returned to office in 1987, he pushed for a major prison expansion with the help of business leaders and law enforcement groups, notably the Texas District and County Attorneys Association (TDCAA) and the Criminal Justice Task Force, which the administration established to coordinate efforts to pass an anti-crime and prison expansion package (Campbell, 2011). Even though Texas was in dire economic straits and economic issues dominated the 1986 election, Clements successfully pushed through a major general obligation bond for prison expansion bundled within a larger set of bonds, jettisoning a longstanding commitment to pay-as-you-go fiscal management. The 1979 landmark *Ruiz* v. *Estelle* decision, which found Texas's overcrowded and unhealthy prisons to be unconstitutional, provided Clements and other hard-liners with an opportunity to expand the state's penal system and to bureaucratize and professionalize its control model. Penal hard-liners faced little resistance because they operated in a political culture characterized by low levels of political participation (including low voter turnout and the absence of statewide civic associations) by African-Americans, low-income people and Mexican-Americans, which were the groups most likely to be ensnared in the state's widening dragnet.[3]

Penal politics in Texas has not been exclusively a top-down process. Prisoners themselves have played a pivotal role in penal reform in Texas that has been overlooked. In his revisionist account of the demise of convict leasing, Perkinson contends that the escapes, strikes, mutinies and riots of leased convicts, and their angry and mournful letters and memoirs documenting their abusive living conditions helped bring about the end of this practice. When traditional avenues of protest were blocked, prisoners would increasingly turn to self-mutilation, such as cutting off a limb or packing a self-inflicted

wound with lye or injecting themselves with kerosene, in order to get some relief from backbreaking field labor and to protest the horrid conditions of their confinement. Initially, these self-mutilations did not have a wider political impact. But as the number of self-mutilations rose into the hundreds each year in Texas in the early 1940s and the practice spread to other states, it became impossible for state officials and enterprising journalists to ignore the abhorrent conditions that provoked the bloody protests.

Coinciding with the rise of the civil rights movement, prisoners began looking to the courts for relief. But as Perkinson shows, state and prison officials in Texas were as determined as those in Arizona to maintain the core features of the control model. They eventually eviscerated many of the court-ordered reforms after wars of attrition played out in the legal arena. Perkinson devotes nearly two chapters to the case of David Resendez Ruíz, the lead plaintiff in a landmark federal lawsuit brought against Texas's prison system in the 1970s. Battered around in the courts for about two decades, *Ruíz* v. *Estelle* eventually brought about some significant changes in the state's penal system. But indirectly it also 'helped create an equally severe and infinitely larger prison system in its place' (Perkinson, 2010: 253). As for Ruíz, he was kept in solitary confinement in a cramped, dank dungeon-like cell for decades after the lawsuit was settled. Just months before he died in 2005, he was moved to a prison hospital after being denied medical parole. As Perkinson dryly notes, Ruíz fought the law but the law ultimately won.

If history is any guide, Texan prisons, already some of the toughest in the nation, could become even leaner and meaner in the future. Vexed with growing budget deficits and a virulent anti-tax fever, government and prison officials in Texas and elsewhere have been attempting to cut costs by privatizing more prisons and prison services, intensifying their efforts to exploit penal labor and slashing spending on inmates' medical care, food and other penal 'luxuries' like vocational, substance abuse and educational programs. Recently Texas enacted a slew of penal reforms aimed at shrinking its prison population, but its incarceration rate stubbornly remains the second highest in the country (Fabelo, 2010). If Perkinson's analysis is correct, the Lone Star State will not begin shuttering its prisons without enormous political pressure.

The control model pioneered by Texas and exported to other states has become a key tool to manage an increasingly diverse society ridden with many politically and economically marginalized groups in Texas, Arizona and elsewhere. But the Lone Star State ultimately may be more successful than Arizona in instituting penal reforms that make sizable cuts its incarceration rate. Unlike Arizona, Texas has a history of periodic bursts of penal protest movements linked to wider social movements. Moreover, the get-tough, anti-federal stance has been formative for the political identity of many state officials in Arizona. This helps explain why the pivotal 1977 overhaul of its criminal code and the 1993 modifications of the code that drove the prison boom remain largely untouchable as one economic crisis after another has buffeted the state (Lynch, 2010: 223–4).

## THE WIDER POLITICAL CONSEQUENCES OF THE CARCERAL STATE

For a long time, the expansion of the carceral state was widely viewed as a peripheral problem in American politics and society that was largely confined to poor urban communities and minority groups. But the carceral state has grown so huge that it has begun to metastasize and directly impinge on fundamental democratic institutions. Scholars and penal reformers have begun focusing attention on the wider political consequences of mass imprisonment. The carceral state bears down on many central issues in contemporary

American politics, everything from broad questions about how we conceptualize the American state to more specific ones concerning voting rights, voter participation, public opinion and changing conceptions of citizenship.

The political development of the carceral state challenges the common understanding of the US state as weak and is cause to rethink our understanding of the US welfare state. The US state has developed an awesome power and an extensive apparatus to monitor, incarcerate and execute its citizens that is unprecedented in modern US history and among other Western countries. This development raises deeply troubling questions about the health of democratic institutions in the USA and the character of the liberal state. As Mary Bosworth notes in her analysis of the origins, development, and transformation of the US penal system from the colonial era to today, 'Imprisonment is, by nature, an articulation of state power' (2010: 22).

The emergence of the carceral state in the USA has revived interest in the ways in which punishment is a 'uniquely revealing lens into how political regimes work' (McBride, 2007: 3). Political theorists have focused in particular on how punishment is 'a central problem for political administration that requires careful negotiation of the stated ideals of a polity in the exercise of power' (McBride, 2007: 3). Some of them have been especially interested in the relationship between the contemporary death penalty, state sovereignty and the late liberal state (Sarat, 1999, 2001; Kaufman-Osborn, 2002).

Voting rights and the carceral state is another growing area of interest. The voting irregularities of the 2000 and 2004 presidential elections drew enormous public attention to the plight of the estimated 5 million Americans barred from voting by a maze of state laws that deny people with criminal records the right to vote, sometimes temporarily, sometimes permanently (Manza and Uggen, 2006: v). Many established democracies place few, if any, restrictions on the right to vote for people with criminal convictions, including those in prison. The USA not only disenfranchises most of its prisoners but also is the only democracy that routinely disenfranchises large numbers of nonincarcerated offenders and ex-offenders – people on parole or probation or who have completed their sentences (Manza and Uggen, 2006: 38–9). The political impact of felon disenfranchisement in the USA is so huge because the number of people with felony convictions on their records is so huge (more than 16 million Americans, according to Uggen et al., 2006) and because felon disenfranchisement laws have stark racial origins and racial consequences (Brown-Dean, 2004; Pettus, 2005: chs. 3 and 5; Hull, 2006: ch. 2; Manza and Uggen, 2006: ch. 2). More than one in seven black men in the USA is disenfranchised because of his criminal record (Manza and Uggen, 2006: 10).

Felon disenfranchisement raises fundamental questions about how we define (and redefine) citizenship (Ewald, 2002; Brown-Dean, 2004: ch. 2; Pettus, 2005). It also may be a decisive factor in close elections. Manza and Uggen (2006) calculate that if Florida had not banned an estimated 800,000 former felons from voting in the 2000 election, Al Gore would have handily carried the state and won the White House, a claim disputed by Burch (2008). Manza and Uggen (2006) also contend the Democratic Party might have controlled the US Senate for much of the 1990s had many former felons been permitted to vote (Manza and Uggen, 2006: 192–6). Their work implicitly challenges claims about the sources of and degree of political dominance of the Republican Party in the 1980s and 1990s. If felon disenfranchisement is factored in, the ascendancy of the Republican Party may have been as much a function of locking out wide swaths of the electorate as crafting a new, more conservative message that successfully appealed to Democrats disenchanted with the remnants of the New Deal coalition.

The felon disenfranchisement issue is cause to rethink another fundamental question in the study of American politics: is the American voter vanishing? Building on earlier work by McDonald and Popkin (2001),[4] Manza and Uggen (2006: 177) contend that much of the so-called drop in voter turnout may be a consequence of faulty calculations and assumptions used in official turnout statistics. The standard accounts fail to properly consider the large number of non-citizens, prisoners, people on parole or probation and ex-felons who have been disenfranchised by electoral laws and thus overstate the decline in voter turnout.

But the impact of mass imprisonment on voter turnout and citizenship ties cuts even deeper. Having a criminal conviction is a more significant factor in depressing voter turnout among offenders and ex-offenders than formal legal barriers to voting (Burch, 2007). Moreover, contact with the criminal justice system appears to have large negative effects not just on voting but also on civic involvement and trust in government, thus fostering weak citizenship ties. Since people with convictions are concentrated within certain racial groups and certain geographic areas, the carceral state appears to be creating a troubling phenomenon that Burch calls 'concentrated disenfranchisement' (2007: chs 5 and 6).

Research by Burch (2007), Cohen (2010), Weaver and Lerman (2010) and others on the impact of penal policies on political and civic participation and by Bobo and Thompson (2006) on criminal justice and public opinion indicate that the carceral state may be rapidly cleaving off wide swaths of people in the USA from the promise of the American Dream. The political consequences of this are potentially explosive because the American Dream has arguably been the country's central ideology and has served as a kind of societal glue holding together otherwise disparate groups (Hochschild, 1995).

Evidence is growing that many of today's crime control policies fundamentally impede the economic, political and social advancement of the most disadvantaged people in the USA. Prison leaves them less likely to vote and to participate in other civic activities, find gainful employment and maintain ties with their families and communities (Roberts, 2003/2004; Pattillo et al., 2004). The landmark work on the collateral consequences of imprisonment is Bruce Western's (2006) *Punishment and Inequality in America*. Western soberly concludes, after a careful analysis of wage, employment, education and other socioeconomic data, that mass imprisonment has erased many of the 'gains to African-American citizenship hard won by the civil rights movement' (2006: 191). Incarceration significantly reduces the wages, employment, and annual income of former inmates (ch. 5). Incarceration also decreases the likelihood that they will get married or stay married and increases the risk of domestic violence for their partners (ch. 6). The hyper-incarceration of African-Americans also may help explain enduring racial disparities in morbidity and mortality (Pettit and Sykes, 2008: 7–8). These negative effects are concentrated among poor, uneducated, black men, drawing a sharp demarcation between poor and middle-class blacks and between poor blacks and the rest of society. 'By cleaving off poor black communities from the mainstream, the prison boom left America more divided,' Western concludes (2006: 7).

The carceral state raises other troubling and largely unexplored issues about political participation and citizenship. Mass imprisonment is helping to create and legitimate a whole new understanding of citizenship and belonging (Roberts, 2003/2004). Fixated on the staggering increase in the number of people behind bars, analysts have paid less attention to the political and social implications of the stunning rise in the number of people consigned to legal and civil purgatory who are not fully in prison or fully a part of society. On any given day, in addition to the more than two million people sitting in jail or prison, another five million people are

on probation or parole or under some form of community supervision (Glaze et al., 2010). Parole and probation officers are permitted to regulate major and mundane aspects of offenders' lives – everything from where they live and whom they associate with to whether they have a beer in their refrigerator and whether they are permitted to carry a cell phone (Beckett and Herbert, 2009). Many people on parole or probation are subject to random drug tests. Law enforcement officers also are permitted to conduct warrantless searches of parolees and probationers that are not subject to the standard Fourth Amendment protections. Goffman's (2009) ethnographic study of 'life on the run' in a poor neighborhood in Philadelphia is a chilling account of how the expansive systems of policing and supervision that have accompanied the rise of the carceral state have fostered a pernicious climate of fear and suspicion that penetrates all aspects of daily life, including intimate and family relations, labor force participation and access to medical care. Men on parole or probation and those with outstanding warrants, even for trivial offenses, avoid the police and the courts at all costs, even when they are the victims of violent attacks and other serious crimes, out of a justified fear they will be sent back to prison or jail (Goffman, 2009: 353).

For many former offenders, their time in purgatory never ends, even after they have served their prison sentence or successfully completed their parole or probation. Former felons (and some former misdemeanants) risk losing the right to vote and also are subject to other acts of 'civil death' that push them further and further to the political, social and economic margins. Former felons often must forfeit their pensions, disability benefits and veterans' benefits. Many of them are ineligible for public housing (Simon, 2007: 194–8), student loans or food stamps. Dozens of states and the federal government ban former felons from jury service for life. As a result, nearly one-third of African-American men are permanently ineligible to serve as jurors (Kalt, 2003: 67).[5]

States prohibit former offenders from working in scores of professions, including plumbing, palm reading, food catering, and even haircutting, a popular trade in many prisons (Hull, 2006: 33; Gottschalk, 2006: 22 n. 45). A recent American Bar Association study funded by the National Institute of Justice counted 38,000 statutes that impose consequences on people convicted of crimes (*Crime and Justice News*, 2011). In April 2011, Attorney General Eric Holder urged states to eliminate the legal burdens on former offenders that do not imperil public safety, such as certain restrictions on housing and employment (*Crime and Justice News*, 2011). Many jurisdictions forbid employers to discriminate against job applicants solely because of their criminal record unless their offense is directly relevant to the job. But applicants with criminal records are disproportionately denied jobs (Pager, 2003, 2007), and rejected job seekers have great difficulty getting redress in the courts (Hull, 2006: 32–4). In some major cities, 80 percent of young African-American men now have criminal records (Street, 2002) and thus are subject to a 'hidden underworld of legalized discrimination and permanent social exclusion' (Alexander, 2010: 13). Wacquant characterizes this underworld as 'a closed circuit' of perpetual social and legal marginality (Wacquant, 2000: 384). Alexander contends that the criminal justice system should not be thought of as an independent system but 'rather as a *gateway* into a much larger system of racial stigmatization and permanent marginalization' (Alexander, 2010: 12, original emphasis).

In a remarkable development, elaborate gradations of citizenship are on their way to becoming a new norm in the USA. The carceral state has helped to legitimize the idea of creating a very separate political and legal universe for whole categories of people. These 'partial citizens' (Manza and Uggen, 2006: 9) or 'internal exiles' (Simon, 2007: 175), be they felons, ex-felons, convicted sex offenders, legal resident aliens, undocumented immigrants or people burdened with

banishment orders, are now routinely denied a range of rights and access to state resources.[6] Some ex-felons succeed in having their political rights restored, but it often involves elaborate, capricious, intrusive and daunting procedures that establish a new standard of 'worthiness' for political participation (Goodnough, 2004). This is a modern-day reincarnation of earlier standards of worthiness, such as the infamous literacy test.

Another growing and related area of scholarly and public interest is the criminalization of immigration policy (De Giorgi, 2006: ch. 5). In the case of immigrants, documented and undocumented, a whole new penal apparatus has been quietly under construction for decades. It operates under the auspices of the US Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service) but has been largely shielded from public and legal scrutiny. Changes in immigration policy over the past 30 years or so have become new drivers of the carceral state (Bohrman and Murakawa, 2005). In the early 1980s, the Reagan administration ended the prevailing practice of releasing undocumented immigrants pending administrative proceedings. Two landmark pieces of legislation in 1996 - the Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act - dramatically expanded the categories of crimes for which legal residents could be deported and eliminated many opportunities for waivers. A conviction for simple battery or shoplifting with a one-year suspended sentence could be cause to trigger mandatory detention and deportation (Dow, 2004: 173–4). During the debate over the immigration reform bill that imploded in mid-2007, an amendment was even proposed that called for the mandatory detention of anyone who overstayed his or her visa (*New York Times*, 2007: A22).

The number of people held in special detention centers and elsewhere on any given day has increased more than eleven-fold since the early 1970s (calculated from Dow, 2004: 7–9; Kolodner, 2006: C1) as the immigration service has become a mini-Bureau of Prisons. A notable recognition of this shift is the increasingly detailed accounting of trends in immigration detention included in the Bureau of Justice Statistics biannual reports on the incarcerated population in the USA (for example, Sabol et al., 2009: 10). In a remarkable development, Latinos now represent the largest ethnic group in the federal prison system. This is a consequence of the dramatic rise in immigration raids and prosecutions for immigration violations, and the drop in federal prosecutions of other crimes, including gun trafficking, corruption, organized crime and white-collar crime (Gorman, 2009).

Ironically, since people who cross the border illegally are not technically considered 'criminals', they have fewer legal protections and rights and often are subjected to more capricious and brutal conditions of confinement than citizens charged with crimes (Dow, 2004). Secret detentions, physical abuse, closed court proceedings, denial of contact with family members, attorneys and the media, notoriously arbitrary administrative reviews, 'institutionalized anti-Arab bias' (Dow, 2004: 211), indefinite detentions and state resistance to habeas corpus reviews have long been the standard operating procedures of the parallel universe of immigrant detention. Recent scholarship on immigrant detention and the carceral state is cause to rethink and reexamine the conventional view that the 9/11 attacks were the catalyst for a drastic shift in immigration policy. In fact, there appears to be a remarkable continuum between the pre-9/11 and post-9/11 treatment of immigrants, with the differences being primarily in degree, not kind.

## 'GOVERNING THROUGH CRIME'

The criminalization of immigration policy is just one example of how the 'technologies, discourses, and metaphors of crime and criminal justice' have been migrating to all

kinds of institutions and public policies that seem far afield from crime fighting (Simon, 2007: 4). A new civil and political order based on 'governing through crime' has been in the making for decades. The war on crime has created imbalances in the political system. The US Department of Justice and the office of the attorney general have swollen at the expense of other parts of the federal government. The power of the prosecutor has expanded at the expense of judges, defense attorneys and other actors in the criminal justice system. Perhaps even more significantly, the all-powerful, largely unaccountable prosecutor has become the new model for exercising executive authority in the USA. In word and deed, mayors, governors and presidents increasingly fashion themselves as 'prosecutors-in-chief'. They 'define their objectives in prosecutorial terms', frame 'political issues in the language shaped by public insecurity and outrage about crime' and push for vast expansions of executive power (Simon, 2007: 35).

The war on crime has fundamentally recast both governmental and nongovernmental institutions in the USA, according to Simon (2007). In the new regime, criminal analogies are wielded in many diverse settings, from homes to schools to the workplace. Principals, teachers, parents and employers all gain authority and are viewed as acting legitimately if they can redefine family, education or workplace issues as criminal matters.

Decades ago 'racial inequality was the pivot around which the federal government mandated a vast reworking in the way schools were governed at the state and local levels' (Simon, 2007: 9). Now, Simon contends, it is crime. The federal Safe Schools Act 1994 and the state-level Safe Schools Acts it spawned singled out crime control as the main vehicle for improving public education. In introducing his No Child Left Behind Act 2001, President George W. Bush cast educational failure and crime in the schools as parallel problems. As a result of these and other measures, educational policy has been

criminalized. Schools have been prisonized with the proliferation of school-based police officers, drug sweeps, uniforms, metal detectors, zero-tolerance rules and the greater use of sanctions like detention and expulsion (Simon, 2007: 222–6).

Governing through crime has transformed the everyday lives of not just the poor and disadvantaged but also of the middle class. Lyons and Drew (2006) describe in chilling detail how paramilitary police and a menacing K-9 unit of drug-sniffing dogs carry out 'lockdowns' and random drug searches at an affluent suburban high school. In their tale of two schools in Ohio – a suburban high school and an inner-city one – they show how politicians and lawmakers strategically cultivate an excessive fear of crime and violence 'to divest from any notion of public education as a democratic social good' (Lyons and Drew, 2006: 4). Students, teachers and communities internalize the 'zero-tolerance culture' foisted on them, making it difficult to resist the 'transformation of schools from sites of democratic education to sites of social control and punishment' (2006: 90).

The suburbs and suburban life have been fortified; so has the workplace. With the decline of organized labor and collective bargaining and the retreat of the state in regulating the workplace, employers increasingly are using the crime issue to establish their dominance on the job (Simon, 2007: 246). Their tools include the widespread use of drug testing and other forms of intensive surveillance and the dismissal of employees for off-the-job infractions like domestic violence and drug abuse.

## THE CARCERAL STATE AND THE WELFARE STATE

The emergence of the carceral state is cause to reconsider how we think about the US welfare state. Western's portrait in *Punishment and Inequality* of the deteriorating labor-market position of poor, unskilled blacks is

at odds with the conventional view that the US labor market outperforms the labor markets of Western Europe. His account undermines the widespread claim that the USA, with its relatively unregulated labor market, weak unions and stingy welfare benefits, is better at reducing unemployment, especially for low-skilled workers, than 'nanny states', such as France, Italy and Germany. 'The invisible disadvantage produced by mass imprisonment challenges this account of how meager social protections benefit the least-skilled workers', according to Western (2006: 104). Moreover, state regulation of the poor did not recede in the USA in the 1990s, it merely shifted course. The government significantly increased its role in regulating the lives of poor, uneducated men and women by sweeping more and more of them up into the criminal justice system's growing dragnet (Western, 2006: 105).

As Wacquant (2009), Beckett and Western (2001), and others have documented, the carceral state has expanded at the expense of the welfare state. By a number of measures – expenditures, personnel, congressional hearings and legislation – the law enforcement apparatus has been growing while social welfare provision has been contracting. Some states have experienced a direct dollar-for-dollar trade-off as budgets for higher education shrank and corrections budgets grew. States and countries that spend more on social welfare tend to have relatively lower incarceration rates (Sutton, 2004; Downes and Hansen, 2006). Communities that are not ridden with economic and racial stratifications also appear to have lower crime rates, especially for violent crime (Peterson and Krivo, 2010).

Examined more closely, what we may be seeing is not so much the contraction of the welfare state as its absorption by the carceral state, which has become the primary regulator of the poor and a main conduit of social services for the poor and disadvantaged. Jails and prisons in the USA are now responsible for the largest number of mentally ill people in the country. Drug courts and domestic violence courts and parole and probation officers not only monitor the behavior of offenders but also often provide key links to dwindling social services and employment and educational opportunities. Wacquant suggests that it is untenable to analyze social and penal policy in isolation from one another because they are so enmeshed today and have been for a long time (Wacquant, 2009: 13).

Wacquant provocatively suggests that the USA (and perhaps other developed countries) is groping toward a new kind of state, one he calls the 'centaur state', which is 'guided by a liberal head mounted on an authoritarian body'. What he really means is a neoliberal head – where the doctrine of laissez faire rules with respect to the social inequalities produced by largely unregulated capital and labor markets – that is attached to a body that is 'brutally paternalistic and punitive' (Wacquant, 2009: 43).

The disadvantages that mass imprisonment confers on the most disadvantaged members of American society has remained largely invisible for many reasons, some political, some analytical, and some, a combination of the two. For example, the US census veils and distorts the wider impact of the carceral state (Gottschalk, 2007). How to tabulate prisoners was one of the most vexing issues for the US Census Bureau as it prepared for the 2010 census. The bureau chose to enumerate prisoners as residents of the towns and counties where they are incarcerated. But most inmates have no personal or civic ties to these communities and almost always return to their home neighborhoods upon release.

The way prisoners currently are counted has enormous and unsettling political and economic consequences. In every state except Maine and Vermont, imprisoned felons are barred from voting. Yet these disenfranchised prisoners are included in the population tallies used for Congressional reapportionment and for redistricting state House and Senate seats, city councils and other government bodies. This practice dilutes the votes of

urban areas and of rural areas without prisons. For example, nearly 40 percent of the inmates in Pennsylvania's state prisons come from Philadelphia, which has no state prisons in its city limits. For census and redistricting purposes, these Philadelphia citizens are considered residents of the counties far from their homes where they are imprisoned. These tend to be predominantly white, rural districts that are Republican strongholds.

The evidence of political inequities in redistricting arising from how the Census Bureau counts prisoners is 'compelling', according to a report by the National Research Council of the National Academies (2006: 9). A provocative analysis by the Prison Policy Initiative suggests that several Republican Senate seats in New York State would be in jeopardy if prisoners in upstate correctional institutions were counted in their home neighborhoods in New York City (Wagner, 2002: 1–6). A recalibration of New York's prison population would likely put the Republican Party's decades-old domination in the state Senate at risk.

The current census practice grossly distorts demographic and socioeconomic data, leading to misleading conclusions in vital areas like economic growth, migration, household income and racial composition (Lotke and Wagner, 2004; Wagner, 2004). For example, in the 2000 census, 56 counties nationwide – or 1 in 50 – with declining populations were misleadingly reported to be growing, thanks to the inclusion of their captive populations (Heyer and Wagner, 2004). Pennsylvania's Union County, which has an archipelago of federal penitentiaries, is 90 percent white, according to the 2000 census. But without its 5000 prisoners, Union would be 97 percent white (Prisoners of the Census, 2006).

Mass imprisonment also distorts labor market, economic and demographic data. Official statistics mask an invisible inequality generated by mass imprisonment. Large surveys run by the Census Bureau to determine the poverty rate, unemployment rate and wage levels exclude people who are incarcerated (Western, 2006: 87). Other major demographic and health surveys also exclude prisoners, skewing the results (Pettit and Sykes, 2008: 9). Western's work challenges claims about the achievements of the 1992–2000 economic expansion, hailed as the largest peacetime expansion in US history. If prison and jail inmates were counted, the US unemployment rate for males would have been at least 2 percentage points higher by the mid-1990s (Western and Beckett, 1999: 1052), and the true jobless rate for young black males in 2000 would have been 32 percent, not the official 24 percent (Western, 2006: 90).

## RESISTANCE TO THE CARCERAL STATE

The carceral state raises many important issues about power and resistance. Some scholars suggest that a new social movement may be coalescing around opposition to the carceral state (Katzenstein, 2005; Gilmore, 2007). This embryonic movement raises a question central to the study of politics: how do marginalized and stigmatized groups organize and effectively assert political power?

Mainstream African-American organizations and leaders have been slow to enlist in a battle against the carceral state (Alexander, 2010). Historically, black leaders have had a persistent unease about focusing on criminal justice issues (DuBois, 1970; Curtin, 2000: 9–10, ch. 10; Muhammad, 2010). Some of the same factors that prompted African-Americans to distance themselves from the HIV/AIDS crisis in the black community in the 1980s and 1990s (Cohen, 1999, 2010) may be causing them to turn a blind eye to the crisis of blacks and the carceral state today. The reluctance to embrace and publicize the plight of the disproportionate number of incarcerated African-Americans may be the result of fears that this will reflect unfavorably on blacks as a whole and impede

black leaders' efforts to identify with what they perceive to be the middle-class moral values of the mainstream. For example, some civil rights groups were reluctant to use the federal Voting Rights Act to challenge felon disenfranchisement laws 'for fear of a backlash that might jeopardize the rights of the more privileged members of the black community' (Warren, 2000). Many black legislators and other black leaders initially were enthusiastic recruits in the war on drugs and even supported the enormous sentencing disparity between crack and powder cocaine, which disproportionately hurts African-Americans (Kennedy, 1997: 370–2; Barker, 2009: 149–52). Cohen contends that the black media and black elites, including Oprah Winfrey, Bill Cosby and Barack Obama, have contributed to a 'moral panic' based on 'an exaggerated fear of black youth' (Cohen, 2010: 39). At the same time, they have remained relatively silent about the enormous structural barriers, including racism, that ensnare black Americans. This 'secondary marginalization' – or public policing by black elites – denies 'community recognition and resources to those labeled deviant in the black community by indigenous organizations, institutions, and leaders' and legitimizes the 'heightened policing and criminalization' of young black Americans (Cohen, 2010: 42).

Mainstream African-American leaders and groups have sporadically challenged the war on drugs and the carceral state (Clemetson, 2004). In 1993–4, the Congressional Black Caucus (CBC) was a major factor in getting crime prevention programs included in the federal crime bill. The CBC also waged a valiant but ultimately losing battle to enact the Racial Justice Act, which would have permitted introducing statistical evidence of racial discrimination in capital punishment cases. The NAACP, ACLU and some other civil rights organizations initially were at the forefront of the push begun in the mid-1990s to challenge laws that disenfranchise former offenders. At its start, the campaign focused on the discriminatory nature of these laws,

their stark racial consequences and their deeper historical origins in the Jim Crow era's efforts to undo Reconstruction and push blacks out of the electorate. But as the felon disenfranchisement issue attracted a broader array of supporters, including People for the American Way, DEMOS, the AFL-CIO and the Brennan Center, 'the discourse surrounding reform de-emphasized race' (Brown-Dean, 2010: 202). The new deracialized strategy emphasized the importance of universal suffrage 'for preserving the legitimacy of the democratic process' (Brown-Dean, 2010: 202).

For decades, the NAACP, the country's most prominent civil rights organization, was politically somnambulant as the carceral state and the gap between black and white incarceration rates continued to grow. That appears to be changing since Benjamin Jealous became head of the NAACP in 2008. Jealous has characterized mass incarceration as the leading civil rights issue of the 21st century (Serwer, 2009). In early 2011, the NAACP released a major report on the schools-to-prison pipeline that documented how corrections budgets have grown at the expense of funding for education. Shortly thereafter, the NAACP unveiled a major national billboard campaign to draw attention to the problem of mass incarceration (NAACP, 2011). At its annual convention in July 2011, the NAACP enacted a historical resolution calling for an end to the war on drugs (Smith, 2011).

Penal reformers are enlisting not only civil rights but also international human rights laws and norms to challenge the carceral state. The accelerated political and economic integration of Europe over the past couple of decades has increased pressure on European countries to be more aware of how their penal policies and prison conditions compare with those of their neighbors. This has helped neutralize some of the growing internal political pressures to be more punitive in the UK, which has one of the highest incarceration rates in Western Europe. The USA is likewise highly vulnerable to unfavorable

cross-national comparisons of penal policies and penal conditions. Through their detailed reports on capital punishment, the widespread use of life sentences, supermax prisons, abuse of female prisoners, prison rape and other disturbing conditions in US prisons, human rights organizations, such as Amnesty International, Human Rights Watch and the ACLU, and leading penal reform groups, such as The Sentencing Project, have been drawing increased national and international attention to how US penal practices are exceptionally punitive when compared to other Western countries.

The carceral state has the potential to reconfigure the politics of feminism and women's issues. With more than two million people behind bars, the overwhelming majority of them men, millions of women are the mothers, daughters, wives, partners and sisters of men entombed in the carceral state. Moreover, since 1995, women have been the fastest growing segment of the US prison population (Harrison and Beck, 2006: 4). The enormous expansion of the carceral state may finally bring about a day of reckoning for feminism and women's groups on the issue of law enforcement and the state. Over the past decade or so, the chorus of doubts about relying on penal solutions to address violence against women has grown louder across a broad range of feminists, crime experts, academics and social workers.

Concerns have been growing about mandatory arrest, presumptive arrest and no-drop policies in the case of domestic violence and about community notification and civil commitment laws for sexual offenders. These legal remedies do not necessarily reduce violence against women and children and may have contributed to greater state control of women, especially poor women. They also have fostered gross public understandings of the causes of sexual and other violence against women and children and how to prevent it (Zorza and Woods, 1994; Minow, 1998; Coker, 2001: 807; Lombardi, 2002; Sontag, 2002; Miller, 2005; Janus, 2006; Gruber, 2007; Bumiller, 2008; Whittier, 2009).

The rising number of women behind bars for minor drug violations or for being the unwitting or reluctant accomplices to abusive partners has highlighted the persistent problems with the drug war, as has the growing number of imprisoned mothers with young children (Talvi, 2007; Kruttschnitt, 2010). A number of critics suggest that the women's movement needs to address the problem of violence against women not by strengthening its ties with law enforcement and victims' groups but by connecting up with other progressive reform movements calling for social justice, an expanded welfare state and a retreat of the carceral state (Harris, 1987; Snider, 1994: 110; Bumiller, 2008).

The most significant political challenges to the carceral state appear to be occurring at the subnational level. Today many states are attempting to slow their incarceration rates, with varied degrees of success. Barker (2009) demonstrates how differences in the structure of state governance and in the practice of civic engagement help explain why California has pursued far more punitive policies than New York or Washington State. Although many national civil rights organizations and leaders have been slow to challenge the carceral state, poor neighborhoods in urban areas have been 'hotbeds of mobilization' around criminal justice issues (Miller, 2007: 313). Some urban neighborhoods have been intensely engaged in developing policing and other criminal justice policies at the local level (Skogan, 2006). Local community groups in urban areas appear to take a less punitive approach to penal matters. They situate menaces like criminal violence and the illegal drug market within a wider social context that highlights how racial discrimination, high employment, inadequate housing and health care, and failing schools are all part of the 'crime problem' (Miller, 2007: 311). For a variety of institutional and political reasons that analysts are just beginning to excavate, these local groups in high-crime areas have been persistently locked out of the crime and punishment debate at the state and national levels (Miller, 2008).

African-American and Hispanic women have been establishing important grass-roots and statewide organizations to challenge the carceral state on a number of fronts, from three-strikes laws to the siting of new prisons. Gilmore traces how the organization Mothers Reclaiming Our Children (ROC), founded in California in the early 1990s, evolved from being a self-help group 'into a pair of political organizations trying to build a powerful movement' to challenge what she calls 'domestic militarism' (2007: 239). Mothers ROC 'critically deploys the ideological power of motherhood to challenge the legitimacy' of the carceral state by emphasizing how each prisoner is someone's child (Gilmore, 1999: 27). Mothers ROC and other reform organizations also stress the devastating impact that incarceration is having on the children and communities that offenders leave behind. As Gilmore poignantly explains, prisons 'wear out places by wearing out people, irrespective of whether they have done time' (1999: 17). Scholars and activists are drawing increased attention to how US penal policies constitute a 'war on the family' that leaves the millions of children of imprisoned and formerly imprisoned parents shattered and traumatized (Bernstein, 2005; Golden, 2005).

The political economy of the carceral state is emerging as another point of attack for opponents of the carceral state. We are beginning to get a much more sophisticated understanding of who benefits economically and who does not from the carceral state. This work challenges the narrowly economistic view, popular for a long time among many anti-prison activists, that attributes the origins of the carceral state to the private interests that profit from building prisons, running prisons and exploiting prison labor. Gilmore develops a more subtle political economy argument to explain the creation of a 'golden gulag' in California. She singles out the specific contours of the state's wrenching economic and political restructuring beginning in the 1970s that created surplus finance, surplus land, surplus labor and surplus state capacity (2007: 88).

Anti-prison activists are using new economic and political arguments and forging new rural-urban coalitions and alliances with environmental groups to unhinge the carceral state (Braz and Gilmore, 2006; Gilmore, 2007). For example, a coalition of family ranchers and farmworker families in Farmersville, California, successfully fought the construction of a new prison in their community. They based their strategy on showing how prisons do not solve the economic problems of rural areas but do create new ones as they endanger the water supply, aggravate class and racial inequalities and raise rates of domestic violence (Gilmore, 2007: 177).

## THE COMPARATIVE POLITICS OF PENAL POLICY

Mass imprisonment within a democratic polity and the hyper-incarceration (Wacquant, 2008) of certain groups are unprecedented developments. The consolidation of this new model in the USA has spurred interest in comparative penal policy and raises the question: Is this country exceptionally vulnerable to get-tough policies, or will other countries emulate the USA?

Deep-seated cultural differences have been a consistent theme in recent scholarship on US exceptionalism in criminal justice policy. Cultural factors singled out include an abiding mistrust of the government (Zimring et al., 2001; Whitman, 2003; Zimring, 2003), a history of vigilantism (Zimring, 2003), an enduring attachment to liberal egalitarianism (Whitman, 2003) and the impact of centuries of white supremacy on American political development (Kaplan, 2006). Some scholars have focused on more recent cultural and social changes to explain American exceptionalism, most notably the arrival of late modernity in the postwar era and the onset of a new 'culture of control' (Garland, 2001).

Institutional and political factors are not incidental to these accounts of American exceptionalism in penal policy but they do not predominate.

The issue of American exceptionalism in penal policy has spurred greater interest in comparative work on crime control and penal policy and in how exceptional institutional, political, and economic factors create exceptional penal policies (Cavadino and Dignan, 2006; Lacey, 2008; Garland, 2010). In the introduction to a pathbreaking volume surveying penal developments in several advanced industrialized countries, Tonry (2007) concedes a role – though a circumscribed one – for specific national characteristics in explaining variations in punitiveness. But he resists the contention that transnational forces associated with globalization and with the economic and social dislocations of late modernity, including rising existential angst, individualism and alienation, are the main engines propelling more punitive policies.

Most of the contributors to the Tonry volume agree that crime patterns generally explain little about why some countries are more punitive than others. From the 1960s to the early to-mid 1990s, crime rates generally increased in the USA and most other industrialized countries (with some fluctuations over this period). But only the USA, the Netherlands, the UK and New Zealand experienced sharp increases in their incarceration rates (Tonry, 2007), though the US incarceration rate remains in a league all its own. Tonry and many of his contributors single out a combination of institutional, political, socioeconomic and cultural factors to explain such wide variations in punitiveness.

Several institutional factors are pivotal. 'Conflict' political systems based on two dominant parties, first-past-the-post electoral systems, and single-member electoral districts are more likely to enact harsher measures than consensual, multiparty systems with proportional representation, coalition governments and greater policy continuity.

Not surprisingly, conflict-style political systems (like those in the USA and the UK) tend to produce conflict-style political cultures with lower levels of public trust and lower levels of government legitimacy – two important contributors to law-and-order politics. Other important institutional variables include the level of party discipline and whether the political economy leans more toward neoliberalism, corporatism or social democracy. Another key variable appears to be the varied ways that industrialized countries have responded to the decline of the Fordist model of production and the emergence of a more contingent workforce and a less regulated global market (De Giorgi, 2006).

Another important institutional factor is sharp differences in the organization and selection of judges and prosecutors. The USA is the only major Western country in which judges and prosecutors are either elected or selected according to partisan criteria, making these officials highly susceptible to public opinion and emotions (Tonry, 2007). In most civil-law countries, judges and prosecutors are career civil servants 'who have spent a professional lifetime absorbing norms of professionalism, political nonpartisanship and impartiality', which helps insulate them from 'public emotion and vigilantism' in individual cases (Tonry, 2007: 35).

Institutional factors also have acted as a check on law-and-order politics in Canada. Legislative power over sentencing is the exclusive domain of Canada's federal government. Provincial governments, which are more susceptible to populist pressures to get tough, have no real legislative authority to alter criminal laws. Local, grass-roots citizens' groups lack viable structural mechanisms (such as referendum) to directly push punitive measures, such as three-strikes laws, and the Canadian government has sharply limited their influence in public bodies dealing with crime policy (Webster and Doob, 2007). The majority of bills passed by

Parliament originate with the government, not individual legislators. This tends to make the government more sensitive to the broader financial and other ramifications of criminal justice legislation. It also permits a wide range of other government departments to weigh in on proposed legislation. Criminal justice policy has remained largely the domain of nonpartisan career civil servants who soldier on despite shifts in which party heads the government. Divided responsibilities between the federal government, which handles all criminal justice legislation, and the provinces, which administer the justice system, ensure that any change in criminal law 'requires extensive consultation between the two "partners"' (Webster and Doob, 2007: 340). This is a time-consuming process that reduces the likelihood of the knee-jerk style of criminal justice policymaking that vexes the USA. Furthermore, judges are selected in a nonpartisan process, which insulates the judiciary from public pressures and political interference. The Canadian judiciary has served as an important safety valve, minimizing the impact of especially punitive legislation enacted for blatantly political reasons (Brodeur, 2007; Webster and Doob, 2007).

Differences in the organization of the media are also an important institutional factor. All countries experience horrific sensationalistic crimes. But the mark that headline-grabbing crimes leave on penal policy varies enormously. In a fascinating essay, Green (2007) compares the infamous case of Jamie Bulger, the toddler abducted and killed in 1993 by two 10-year-old boys outside Liverpool, UK, with the 1994 death of five-year-old Silje Marie Redergard, who was attacked by three six-year-olds in a suburb of Trondheim, Norway. Bulger's death propelled English politicians on a law-and-order campaign that pushed England in a sharply punitive direction, while Redergard's homicide left no lasting mark on Norwegian penal policy. In England, 'the highly adversarial, zero-sum-game-style political culture' interacted with 'a highly competitive and sensationalistic media culture to create incentives for politicians and journalists to politicize events such as the Bulger homicide to score political points and sell newspapers' (Green, 2007: 593). These differences in the organization of the media help explain why Tony Blair and 'New' Labour were so successful at exploiting the Bulger case to express their unapologetically populist and tough new stance on penal policy. This is another example of how US-style punitiveness has made its greatest inroads in the UK, where political pressure to talk – and act – tough on crime and punishment remains strong despite drops in the crime rate (Newburn, 2007).

An underlying theme of much of the work on comparative penal policy is that stable incarceration rates and penal policies cannot be taken for granted. Even countries such as Canada, best known for its persistent 'penal blandness,' are 'extremely vulnerable to a burst for the worst' (Brodeur, 2007: 84; Johnson, 2007; Webster and Doob, 2007). A panoply of historical, cultural and institutional factors have shielded Canada from wider punitive forces – thus far. But the country's decades-old stance of punitive restraint may be in jeopardy due to a series of political scandals that robbed the federal government of its moral authority, a succession of unstable minority governments and a dramatic spike in gun-related homicides in Toronto, the country's media capital. These developments provided an opening for politicians across the board to adopt 'get tough' platforms for electoral gain beginning around 2005. Confidence in nonpartisan expert opinion is eroding, and personal attacks on civil servants are on the rise. Canada could go the way of the Netherlands and Japan, where several somewhat independent events rapidly eroded the protective factors that had made them two of the most lenient countries in the world (Downes, 2007; Johnson, 2007; Webster and Doob, 2007).

Differences in country-specific institutional, socioeconomic and cultural factors dominate explanations for variations in punitiveness.

However, transnational factors are not incidental. As Downes pithily remarks, '[T]he prison system may be an archipelago, but it is not an island' (2007: 118). Transnational factors are exerting contradictory pulls on penal policy. On the one hand, the USA has become 'an aggressive exporter of its penal ideas and management systems' as 'American correctional industries trawl the world for markets, finding ready buyers in England for a twentieth-century version of the prison hulks' (Downes, 2007: 118). Some contend that the growing transnational pressures of migration and neoliberalism are likely to exert significant upward pressure on the incarceration rates of other developed countries (De Giorgi, 2006; Wacquant, 2009). Others are more optimistic that domestic institutions and conditions are capable in many cases of moderating these outside pressures so that many developed countries will maintain 'relatively moderate and modest penal systems in the decades to come' (Lacey, 2008: 167).

The accelerated political and economic integration of Europe over the past couple of decades has increased pressure on European countries to be more aware of how their penal policies and prison conditions compare with those of their neighbors. This has helped neutralize some of the growing internal political pressures to be more punitive in the UK (Newburn, 2007; Snacken, 2007; Tonry, 2007). However, European integration may be a mixed blessing for penal policy over the long term. It may force get-tough countries such as Britain to lighten up. But it may also push the more lenient ones to toughen up and match some evolving European mean of punitiveness. Some analysts have been quite critical of multilateral attempts to harmonize criminal law. They fear this will result in stiffer sentences 'without any real debate as to the efficacy and justice of such sentences' (Padfield, 2004: 89, cited in Lappi-Seppälä, 2007: 286, n. 36). The time-consuming deliberations that have been the hallmark of Europe's more lenient countries, notably in Scandinavia, are at risk. This increases the likelihood that political arguments and symbolic messages will trump arguments based on principles and professional expertise (Lappi-Seppälä, 2007).

Despite some new developments that suggest industrialized countries in Europe and elsewhere may be becoming more punitive, the USA remains in a league all its own. As Franklin Zimring once remarked, comparing increases in incarceration rates over the last three decades in Europe to those in the USA is like comparing a haircut to a beheading (quoted in Downes, 2007: 103). But it does raise the question, '[I]s the United States an outlier or a harbinger of things to come elsewhere?' Or, in other words, '[I]s a haircut the prelude to a beheading' (Downes, 2007: 103)?

## FUTURE RESEARCH

Interest in examining the political factors that have propelled a country or state to drastically cut its incarceration rate or otherwise pursue less punitive policies is growing. The recent analysis of the factors behind a major decarceration in California in the 1960s when conservative Ronald Reagan was governor is a remarkable story (Gartner et al., 2011). So is the account of why California repealed its felon disenfranchisement laws in 1974, defying the trend toward greater punitiveness at the ballot box as the nonwhite population of a state increases (Campbell, 2007).

The experience of other industrialized countries may shed some light on how to dampen the enthusiasm in the USA for putting so many of its people under lock and key and the watchful eye of the state (Roberts and Gabor, 2004). If the experience of other countries is any guide, the so-called root causes approach to progressive penal reform, however well intentioned, may be shortsighted (Brodeur, 2007: 77). This approach seeks to solve the crime and punishment dilemma by focusing on ameliorating

structural problems, such as rampant poverty, high unemployment, dysfunctional schools, an abysmal health-care system and entrenched racism. Long-term fixes are problematic not just because they take a long time. As Brodeur (2007) notes, they are nettlesome because they are harder to sustain from one change of administration to the next. In the US case, the absence of a respected, expert, insular, nonpartisan civil service that maintains policy continuity despite political shifts compounds the problem. The focus on structural problems overshadows the fact that many of the people in US prisons are serving time for nonviolent offenses, many of which are property or petty drug offenses that would not warrant a prison sentence in many other countries. It also deflects attention away from the fact that prisons exacerbate many social ills that contribute to crime and poverty and are unlikely to significantly rehabilitate anyone. Finland made changing penal policy in the short term – not social and economic policy over the long term – its top priority as it consciously sought in the 1960s to slash its incarceration rate. It reduced its prison population significantly over a relatively short period of time without a sustained attack on deeper structural problems (Brodeur, 2007: 75; Lappi-Seppälä, 2007: 234). Germany did the same in the 1980s (Graham, 1990).

Many other critical areas remain to be explored. The need is great for more sophisticated studies of public opinion on a range of criminal justice issues and also on the impact of public opinion on criminal justice policy (Zimring and Johnson, 2006). A number of public opinion surveys offer compelling evidence that public attitudes in the USA have hardened on criminal justice matters even though they have liberalized on a range of other issues, such as sexual behavior, abortion and civil liberties (Sharp, 1999: 53, 52, Figs 2–3; Gaubatz, 1995). Although public attitudes about crime and criminals appear to have hardened, it is misleading to portray the public as overwhelmingly punitive. The role of public opinion in penal policy is extremely complex.

For all the talk about a more punitive public mood, the public's anxiety about crime is 'subject to sudden, dramatic shifts, unrelated to any objective measure of crime' (Frase, 2001: 268). The widespread impression that public concern about crime skyrocketed in the 1960s with the jump in the crime rate and the general uneasiness associated with the riots and demonstrations of these years is not solidly supported by public opinion data (Beckett, 1997: 23–5; Chambliss, 1999: Table 1.1, 20; Loo and Grimes, 2004). The public certainly 'accepts, if not prefers' a range of hard-line policies like the death penalty, three-strikes laws, and increased use of incarceration. But support for these more punitive policies is 'mushy', partly because public knowledge of criminal justice is so sketchy (Roberts and Stalans, 1998: 37–8; Cullen et al., 2000: 1). The public consistently overestimates the proportion of violent crime and the recidivism rate (Gest, 2001: 267). Possessing limited knowledge of how the criminal justice system actually works, people in the USA and elsewhere generally believe the system is more forgiving of offenders than it really is (Roberts, 1997: 250–5; Roberts and Stalans, 1998: 50; Roberts et al., 2003). Overly simplistic public opinion surveys reinforce the 'assumption of an unflinching punitive "law and order" tilt of US public opinion on crime' and mask 'large and recurrent' differences between the views of blacks and whites on the criminal justice system (Bobo and Johnson, 2004; see also Unnever and Cullen, 2010).

Moreover, policymaking elites tend to misperceive public opinion on crime, viewing the public as more punitive and obsessed with its own safety than is in fact the case (Gottfredson and Taylor, 1987). Some of the more sophisticated surveys and focus groups reveal a potentially more forgiving public supportive of rehabilitation but increasingly opposed to spending more on prisons (Doob, 1995: 210, fn 23; Roberts, 1997: 250–4; Roberts and Stalans, 1998; Cullen et al., 2000: 28–33; Justice Policy Institute, 2001;

Hart Research Associates, 2002; Cohen et al., 2006).

Another key area for analysts to investigate is whether a radically new penal model is taking root in the USA and, if so, what are the political implications of this development. The breathtaking and unprecedented increase in the number of people under state supervision in the USA has overshadowed a 'profound qualitative transformation' in penal policy over the past two to three decades (McLennan, 2001: 408). Important changes include: the growing exploitation of prison labor; the proliferation of private prisons and the privatization of food, medical, and other prison services; the widespread use of paramilitary technologies and techniques in penal and police operations; the blurring of the distinction between police and military forces; the escalating number of incarcerated women; and the proliferation of supermax cells and other degrading and inhumane conditions of confinement, like boot camps, chain gangs, and prison rodeos (Kraska, 2001; McLennan, 2001; Rhodes, 2004; Sudbury, 2005; Gómez, 2006; Abramsky, 2007). More work needs to be done on whether these changes herald the ascent of a new penal model. McLennan (2001) and others contend that the new penal model is not exclusively a domestic phenomenon but is also a product of important transnational forces, including globalization, the 'war on terror,' growing militarization and the ascendancy of the neoliberal political and economic model (McLennan, 2001: 416; Strange, 2006; Gilmore, 2007; Wacquant, 2009; Bosworth, 2010).

## CONCLUSION

For all the recent advances in our understanding of the contemporary politics of crime and punishment, this remains an emerging field. Almost four decades have passed since David Bazelon, the chief judge of the US Court of Appeals in Washington, DC, told the

American Society of Criminology, '[P]olitics is at the heart of American criminology' (1978: 3). Yet the discipline of political science is just beginning to recognize crime and punishment as a critical area in the study of politics in the USA and elsewhere, and that crime control strategies are profoundly political because they both reflect and direct the distribution of power in society (Scheingold, 1998: 857). Alarmed by the pernicious consequences of the hyper-politicization of criminal justice policymaking since the 1970s, criminologists generally have recoiled from paying serious attention to the how the political context influences all aspects of crime and punishment (Loader and Sparks, 2011). Many criminologists have sought refuge in producing state-of-the-art, ostensibly apolitical, evidence-based research centered largely on how to reduce crime or on how to help government agencies or other groups reduce crime. But such a 'narrowly instrumental focus appears to forget that in a liberal democracy it matters not only that crime is prevented and detected, but also *how* that happens' (Loader and Sparks, 2011; 107, original emphasis). Loader and Sparks rightfully beseech criminologists to recognize that all aspects of crime and punishment are inherently political for they lie at the 'heart of matters of state, authority, and sovereignty' and are central to how we think about what constitutes a good and fair society (2011: 60, 108).

## NOTES

1 For a skeptical view of whether the economic crisis marks the beginning of the end of mass incarceration, see Gottschalk (2011).

2 Ironically, some of the very historical and institutional factors that made the US women's movement relatively more successful in gaining public acceptance and achieving its goals for women (Gelb, 1987) were important building blocks for the carceral state that emerged simultaneously in the 1970s. Several key institutional variables include: the greater permeability of the US Department of Justice to outside political forces compared to, for example, the Home

Office in Britain; the relative weakness of the welfare state in the USA; the greater presence of diverse mass membership organizations like the National Organization for Women (NOW); the expansive role of the courts in the USA; and the decentralized and fragmented nature of the US political system (Gottschalk, 2006: chs 5 and 6).

3 Campbell (2011) attributes the low level of civic involvement to several institutional factors, including Texas's frequent elections, its off-year gubernatorial contests, numerous constitutional amendments related to trivial aspects of government, and a deep-seated patriarchal political culture.

4 An updated version of the time series is available from the authors at http://elections.gmu.edu/Voter_Turnout_2004.htm

5 In one county in Georgia about 70 percent of the African-American men are ineligible for jury service due to a felony conviction (Wheelock, 2006, in Wheelock and Uggen, 2008: 278).

6 On how the proliferation of banishment orders, which often are invoked against people who have committed trivial infractions, are creating their own special kind of legal and civil purgatory, see Beckett and Herbert (2009). On the 'escalating strategies of surveillance and containment' of sex offenders, see Simon and Leon (2008) and Janus (2006).

# REFERENCES

Abramsky, Sasha (2007) *American Furies: Crime, Punishment, and Vengeance in the Age of Mass Imprisonment.* Boston, MA: Beacon Press.

Alexander, Michelle (2010) *The New Jim Crow: Mass Incarceration in the Age of Colorblindness.* New York: The New Press.

Alix, Ernest (1978) *Ransom Kidnapping in America, 1874–1974: The Creation of a Capital Crime.* Carbondale and Edwardsville, IL: Southern Illinois University Press.

Ayers, Edward (1984) *Vengeance and Justice: Crime and Punishment in the 19th-Century American South.* New York: Oxford University Press.

Barker, Vanessa (2009) *The Politics of Imprisonment: How the Democratic Process Shapes the Way America Punishes Offenders.* New York: Oxford University Press.

Bazelon, David (1978) 'The hidden politics of criminology', *Federal Probation,* 42: 3–9.

Beckett, Katherine (1997) *Making Crime Pay: Law and Order in Contemporary American Politics.* New York: Oxford University Press.

Beckett, Katherine and Herbert, Steve (2009) *Banished: The New Social Control in Urban America.* New York: Oxford University Press.

Beckett, Katherine and Western, Bruce (2001) 'Governing social marginality: welfare, incarceration, and the transformation of state policy', *Punishment & Society*, 3 (1): 43–59.

Bernstein, Nell (2005) *All Alone in the World: Children of the Incarcerated.* New York: The New Press.

Blackmon, Douglas (2008) *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II.* New York: Doubleday.

Bobo, Lawrence and Johnson, Devon (2004) 'A taste for punishment: black and white Americans' Views on the death penalty and the war on drugs', *Du Bois Review*, 1: 151–80.

Bobo, Lawrence and Thompson, Victor (2006) 'Unfair by design: the war on drugs, race, and the legitimacy of the criminal justice system', *Social Research*, 73 (2): 445–72.

Bohrman, Rebecca and Murakawa, Naomi (2005) 'Remaking big government: immigration and crime control in the United States', in Julia Sudbury (ed.), *Global Lockdown: Race, Gender, and the Prison-Industrial Complex.* New York: Routledge. pp. 109–26.

Bonczar, Thomas (2003) *Prevalence of Imprisonment in the US Population, 1974–2001.* US Department of Justice, Bureau of Justice Statistics.

Bosworth, Mary (2010) *Explaining US Imprisonment.* Thousand Oaks, CA: SAGE Publications.

Braz, Rose and Gilmore, Craig (2006) 'Joining forces: prisons and environmental justice in recent California organizing', *Radical History Review,* 96: 95–111.

Brodeur, Jean-Paul (2007) 'Comparative penology in perspective', in Michael Tonry (ed.), *Crime, Punishment, and Politics in a Comparative Perspective—Crime and Justice: A Review of Research,* vol. 36. Chicago: University of Chicago Press. pp. 49–91.

Brown-Dean, Khalilah (2004) 'One lens, multiple views: felon disenfranchisement laws and American political inequality'. PhD dissertation, Ohio State University.

Brown-Dean, Khalilah (2010) 'Once convicted, forever doomed: race, ex-felon disenfranchisement, and fractured citizenship'. Unpublished manuscript.

Bumiller, Kristin (2008) *In an Abusive State: How Neoliberalism Appropriated the Feminist Movement against Domestic Violence.* Durham, NC: Duke University Press.

Burch, Traci (2007) 'Punishment and participation: how criminal convictions threaten American democracy'. PhD dissertation, Harvard University.

Burch, Traci (2008) 'Did disenfranchisement laws help elect President Bush? a closer look at the characteristics and preferences of Florida's ex-felons.' Northwestern University School of Law, Law and Political Economy Colloquium, November 3.

Burton-Rose, Daniel Pens, Dan and Wright, Paul (eds) (1998) *The Celling of America: An Inside Look at the US Prison Industry.* Monroe, ME: Common Courage Press.

Campbell, Michael (2007) 'Criminal disenfranchisement reform in California: a deviant case study', *Punishment & Society,* 9 (2): 177–99.

Campbell, Michael (2011) 'Politics, prisons, and law enforcement: an examination of "Law and Order" politics in Texas', *Law & Society Review,* 45(3): 631–65.

Caplow, Theodore and Simon, Jonathan (1999) 'Understanding prison policy and population trends', in Michael Tonry and Joan Petersilia (eds), *Prisons – Crime and Justice: A Review of Research.* Chicago: University of Chicago Press. pp. 63–120.

Carleton, Mark T. (1971) *Politics and Punishment: The History of the Louisiana Penal System.* Baton Rouge, LO: Louisiana State University Press.

Cavadino, Michael and Dignan, James (2006) *Penal Systems: A Comparative Approach,* 4th edn. London: SAGE Publications.

Chambliss, William (1999) *Power, Politics, and Crime.* Boulder, CO: Westview Press.

Christianson, Scott (1998) *With Liberty For Some: 500 Years of Imprisonment in America.* Boston, MA: Northeastern University Press.

Clemetson, Lynette (2004) 'NAACP Legal Defense Fund Chief Retires'. *New York Times,* January: A10.

Cohen, Cathy (1999) *The Boundaries of Blackness: AIDS and the Breakdown of Black Politics.* Chicago: University of Chicago Press.

Cohen, Cathy (2010) *Democracy Remixed: Black Youth and the Future of American Politics.* New York: Oxford University Press.

Cohen, Mark, Rust, Roland and Steen, Sara (2006) 'Prevention, crime control or cash? Public preferences towards criminal justice spending priorities', *Justice Quarterly,* 23: 317–35.

Coker, Donna (2001) 'Crime control and feminist law reform in domestic violence law: a critical review', *Buffalo Criminal Law Review,* 4: 801–60.

*Criminology & Public Policy* (2011) 'Special issue on mass incarceration', 10 (3).

Cullen, Francis, Fisher, Bonnie and Applegate, Brandon (2000) 'Public opinion about punishment and corrections', *Crime and Justice,* 27: 1–79.

Cummings, Homer and McFarland, Carl (1937) *Federal Justice: Chapters in the History of Justice and the Federal Executive.* New York: The Macmillan Company.

Curtin, Mary (2000) *Black Prisoners and Their World, Alabama, 1865–1900.* Charlottesville, VA: University of Virginia Press.

Davey, Joseph Dillon (1998) *The Politics of Prison Expansion: Winning Elections By Waging War on Crime.* Westport, CT: Praeger.

De Giorgi, Alessandro (2006) *Re-Thinking the Political Economy of Punishment: Perspectives on Post-Fordism and Penal Politics.* Aldershot: Ashgate.

DiIulio John, Jr (1997) 'Are voters fools? Crime, public opinion, and representative democracy', *Corrections Management,* 1: 1–5.

Domanick, Joe (2004) *Cruel Justice: Three Strikes and the Politics of Crime in America's Golden State.* Berkeley, CA: University of California Press.

Doob, Anthony (1995) 'The United States sentencing commission guidelines: if you don't know where you are going, you might not get there', in Chris Clarkson and Rod Morgan (eds), *The Politics of Sentencing Reform.* Oxford: Oxford University Press. pp. 226–33.

Dow, Mark (2004) *American Gulag: Inside US Immigration Prisons.* Berkeley, CA: University of California Press.

Downes, David (2007) 'Visions of penal control in the Netherlands', in Michael Tonry (ed.), *Crime, Punishment, and Politics in a Comparative Perspective—Crime and Justice: A Review of Research 36.* Chicago: University of Chicago Press. pp. 93–125.

Downes, David and Hansen, Kirstine (2006) 'Welfare and punishment in comparative context', in Sarah Armstrong and Lesley McAra (eds), *Perspectives on Punishment: The Contours of Control.* Oxford: Oxford University Press. pp. 33–54.

DuBois, W.E.B. (1970) 'Courts and jails', in Walter Wilson (ed.), *The Selected Writings of W.E.B. DuBois.* New York: Signet Classics. pp. 126–7.

Dumm, Thomas (1987) *Democracy and Punishment: Disciplinary Origins of the United States.* Madison, WI: University of Wisconsin Press.

Dyer, Joel (2000) *The Perpetual Prisoner Machine: How America Profits from Crime.* Boulder, CO: Westview.

Edgerton, Keith (2004) *Montana Justice: Power, Punishment, and the Penitentiary.* Seattle, WA: University of Washington Press.

Edsall, Thomas Byrne and Edsall, Mary (1991) *Chain Reaction: The Impact of Race, Rights, and Taxes on American Politics.* New York: Norton.

Ewald, Alec (2002) '"Civil Death": the ideological paradox of criminal disenfranchisement law in the United States', *Wisconsin Law Review,* 5: 1045–138.

Fabelo, Tony (2010) 'Texas justice reinvestment: be more like Texas?', *Justice Research and Policy,* 12(1): 113–31.

Fierce, Mildred (1994) *Slavery Revisited: Blacks and the Southern Convict Lease System, 1865–1933.* New York: Africana Studies Research Center, Brooklyn College, CUNY.

Flamm, Michael (2005) *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s.* New York: Columbia University Press.

Frase, Richard (2001) 'Comparative perspectives on sentencing and research', in Michael Tonry and Richard S. Frase (eds), *Sentencing and Sanctions in Western Countries.* Oxford: Oxford University Press. pp. 259–92.

Garland, David (2001) *The Culture of Control: Crime and Social Order in Contemporary Society.* Chicago: University of Chicago Press.

Garland, David (2010) *Peculiar Institution: America's Death Penalty in an Age of Abolition.* Cambridge, MA: Belknap Press of Harvard University Press.

Gartner, Rosemary, Doob, Anthony and Zimring, Franklin (2011) 'The past as prologue? Decarceration in California then and now', *Criminology & Public Policy,* 10 (2): 291–325.

Gaubatz, Kathlyn Taylor (1995) *Crime in the Public Mind.* Ann Arbor, MI: University of Michigan Press.

Gelb, Joyce (1987) 'Social movement "success": a comparative analysis of feminism in the United States and United Kingdom', in Mary Fainsod Katzenstein, Carol McClung Mueller (eds), *The Women's Movements of the United States and Western Europe.* Philadelphia: Temple University Press. pp. 267–89.

Gest, Ted (2001) *Crime & Politics: Big Government's Erratic Campaign for Law and Order.* Oxford: Oxford University Press.

Gilmore, Ruth Wilson (1999) 'You have dislodged a boulder: mothers and prisoners in the post Keynesian Californian landscape', *Transforming Anthropology,* 8: 12–38.

Gilmore, Ruth Wilson (2007) *The Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California.* Berkeley, CA: University of California Press.

Glaze, Lauren, Bonczar, Thomas and Zhang, Fan (2010) 'Probation and parole in the United States, 2009', *Bureau of Justice Statistics Bulletin,* December.

Goffman, Alice (2009) 'On the run: wanted men in a Philadelphia ghetto', *American Sociological Review,* 74 (June): 339–57.

Golden, Renny (2005) *War on the Family: Mothers in Prison and the Families They Leave Behind.* New York: Routledge.

Gómez, Alan (2006) 'Resisting living death at Marion federal penitentiary, 1972', *Radical History Review,* 96: 58–86.

Goodnough, Amy (2004) 'Disenfranchised Florida felons struggle to regain their rights', *New York Times,* 28 March: 1.

Gordon, Diana (1994) *The Return of the Dangerous Classes: Drug Prohibition and Policy Politics.* New York: W.W. Norton & Co.

Gorman, Anna (2009) 'Latinos make up a growing bloc of federal offenders', *Los Angeles Times,* 19 February: A10.

Gottfredson, Stephen and Taylor, Ralph (1987) 'Attitudes of correctional policymakers and the public', in Stephen D. Gottfredson and Sean McConville (eds), *America's Correctional Crisis: Prison Populations and Public Policy.* New York: Greenwood Press. pp. 57–75.

Gottschalk, Marie (2006) *The Prison and the Gallows: The Politics of Mass Incarceration in America.* Cambridge: Cambridge University Press.

Gottschalk, Marie (2007) 'Prisoners of the Census Bureau', *LA Times,* 19 February: A9.

Gottschalk, Marie (2011) 'The great recession and the great confinement: the economic crisis and the future of penal reform', in Richard Rosenfeld, Kenna Quinet, and Crystal Garcia (eds), *Contemporary Issues in Criminological Theory and Research: The Role of Social Institutions,* 2nd edn. Belmont, CA: Wadsworth/Cengage. pp. 343–70.

Graham, John (1990) 'Decarceration in the federal republic of Germany: how practitioners are succeeding where policy-makers failed', *British Journal of Criminology,* 30 (3): 150–70.

Green, David (2007) 'Comparing penal cultures: child-on-child homicide in England and Norway', in Michael Tonry (ed.), *Crime, Punishment, and Politics in a Comparative Perspective – Crime and Justice: A Review of Research 36.* Chicago: University of Chicago Press. pp. 591–643.

Greenberg, David and West, Valerie (2001) 'State prison populations and their growth, 1971–1991', *Criminology,* 39 (3): 615–53.

Gruber, Aya (2007) 'The feminist war on crime', *Iowa Law Review,* 92 (March): 741–833.

Hallinan, Joseph (2001) *Going Up the River: Travels in a Prison Nation.* New York: Random House.

Harris, M. Kay (1987) 'Moving into the new millennium: toward a feminist vision of justice', *Prison Journal*, 67: 27–38.

Harrison, Paige and Beck, Allen (2006) 'Prisoners in 2005', *Bureau of Justice Statistics Bulletin,* rev. 18 January 2007.

Hart, P.D. Research Associates (2002) *Changing Public Attitudes Toward the Criminal Justice System.* New York: The Open Society Institute.

Hawkins, Darnell and Hardy, Kenneth A. (1989) 'Black-white imprisonment rates: a state-by-state analysis', *Social Justice,* 16 (4): 75–94.

Heyer, Rose and Wagner, Peter (2004) 'Too big to ignore: how counting people in prisons distorted 2000 census', April. Available at: www.prisonersofthecensus.org/toobig/ (accessed 5 May 2011).

Hindus, Michael (1980) *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina, 1767–1978.* Chapel Hill, NC: University of North Carolina Press.

Hirsch, Adam (1992) *The Rise of the Penitentiary: Prisons and Punishment in Early America.* New Haven, CT: Yale University Press.

Hochschild, Jennifer (1995) *Facing Up to the American Dream: Race, Class, and the Soul of the Nation.* Princeton, NJ: Princeton University Press.

Hull, Elizabeth (2006) *The Disenfranchisement of Ex-Felons.* Philadelphia, PA: Temple University Press.

Jacobs, David and Helms, Ronald (1996) 'Toward a political model of incarceration: a time-series examination of multiple explanations for prison admission rates', *American Journal of Sociology,* 102 (6): 322–57.

Jacobson, Michael (2005) *Downsizing Prisons: How to Reduce Crime and End Mass Incarceration.* New York: New York University Press.

Janus, Eric (2006) *Failure to Protect: America's Sexual Predator Laws and the Rise of the Preventive State.* Ithaca, NY: Cornell University Press.

Johnson, David (2007) 'Crime and punishment in contemporary Japan', in Michael Tonry (ed.), *Crime, Punishment, and Politics in a Comparative Perspective – Crime and Justice: A Review of Research 36.* Chicago: University of Chicago Press. pp. 371–423.

Justice Policy Institute (2001) *Cutting Correctly: New Prison Policies for Times of Fiscal Crisis.* Washington, DC: Justice Policy Institute.

Kalt, Brian (2003) 'The exclusion of felons from jury service', *American University Law Review*, 53 (1): 65–189.

Kaplan, Paul (2006) 'American exceptionalism and racialized inequality in American capital punishment: the contradictions of American capital punishment', *Law & Social Inquiry*, 31 (Winter): 149–75.

Katzenstein, Mary Fainsod (2005) 'Rights without citizenship: activist politics and prison reform in the United States', in David Meyer, Valerie Jenness and Helen Ingram (eds), *Routing the Opposition: Social Movements, Public Policy, and Democracy.* Minneapolis, MN: University of Minnesota Press. pp. 236–58.

Kaufman-Osborn, Timothy (2002) *From Noose to Needle: Capital Punishment and the Late Liberal State.* Ann Arbor, MI: University of Michigan Press.

Kennedy, Randall (1997) *Race, Crime, and the Law.* New York: Pantheon.

Kolodner, Meredith (2006) 'Private prisons expect a boom: immigration enforcement to benefit detention companies', *New York Times,* 19 July: C1.

Kraska, Peter (ed.) (2001) *Militarizing the American Criminal Justice System: The Changing Role of the Armed Forces and the Police.* Boston, MA: Northeastern University Press.

Kruttschnitt, Candace (2010) 'The paradox of women's imprisonment', *Daedalus*, Summer: 32–42.

Lacey, Nicola (2008) *The Prisoners' Dilemma: Political Economy and Punishment in Contemporary Democracies.* Cambridge: Cambridge University Press.

Lappi-Seppälä, Tapio (2007) 'Penal policy in Scandinavia', in Michael Tonry (ed.), *Crime, Punishment, and Politics in a Comparative Perspective – Crime and Justice: A Review of Research 36.* Chicago: University of Chicago Press. pp. 217–95.

Lichtenstein, Alex (1996) *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South.* London: Verso.

Loader, Ian and Sparks, Richard (2011) *Public Criminology?* London and New York: Routledge.

Lombardi, Chris (2002) 'Justice for battered women', *The Nation,* 15 July: 24–7.

Loo, Dennis and Grimes, Ruth (2004) 'Polls, politics, and crime: the "Law and Order" issue of the 1960s', *Western Criminology Review*, 5 (1): 50–67.

Lotke, Eric and Wagner, Peter (2004) 'Prisoners of the census: electoral and financial consequences of counting prisoners where they go, not where they come from', *Pace Law Review,* 24: 587–608.

Lynch, Mona (2010) *Sunbelt Justice: Arizona and the Transformation of American Punishment.* Stanford, CA: Stanford University Press.

Lyons, William and Drew, Julie (2006) *Punishing Schools: Fear and Citizenship in American Education.* Ann Arbor, MI: University of Michigan Press.

Mancini, Matthew (1996) *One Dies, Get Another: Convict Leasing in the American South, 1866–1928.* Columbia, SC: University of South Carolina Press.

Manza, Jeff and Uggen, Christopher (2006) *Locked Out: Felon Disenfranchisement and American Democracy.* New York: Oxford University Press.

Masur, Louis (1989) *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776–1865.* New York: Oxford University Press.

McBride, Keally (2007) *Punishment and Political Order.* Ann Arbor, MI: University of Michigan Press.

McDonald, Michael and Popkin, Samuel (2001) 'The myth of the vanishing voter', *American Political Science Review*, 95: 963–74.

McLennan, Rebecca (2001) 'The new penal state: globalization, history, and American criminal justice, c. 2000', *Inter-Asia Cultural Studies*, 2: 407–19.

McLennan, Rebecca (2008) *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1818–1938.* New York: Cambridge University Press.

Meranze, Michael (1996) *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia, 1760–1835.* Chapel Hill, NC: University of North Carolina Press.

Miller, Lisa (2007) 'The representational bias of federalism: scope and bias in the political process revisited', *Perspectives on Politics*, 5: 305–21.

Miller, Lisa (2008) *The Perils of Federalism: Race, Poverty and the Politics of Crime Control.* New York: Oxford University Press.

Miller, Susan (2005) *Victims as Offenders: The Paradox of Women's Violence in Relationships.* New Brunswick, NJ: Rutgers University Press.

Minow, Martha (1998) 'Between vengeance and forgiveness: feminist response to violent injustice', *New England Law Review*, 32: 967–81.

Morone, James (2003) *Hellfire Nation: The Politics of Sin in American History.* New Haven, CT: Yale University Press.

Muhammad, Khalil Gibran (2010) *The Condemnation of Blackness: Race, Crime, and the Making of Modern America.* Cambridge, MA: Harvard University Press.

Murakawa, Naomi (2005) 'Electing to punish: congress, race, and the American criminal justice state'. PhD dissertation, Yale University.

Myers, Martha (1998) *Race, Labor and Punishment in the New South.* Columbus, OH: Ohio State University Press.

National Association for the Advancement of Colored People (NAACP) (2011) *Misplaced Priorities: Over Incarcerate, Under Educate.* Baltimore, MD: NAACP.

National Research Council, Panel on Residence Rules in the Decennial Census (2006) 'Once, only once, and in the right place: residence rules in the decennial census'. Available at: http://newton.nap.edu/exec-summ_pdf/11727 (accessed September 2006).

Newburn, Tim (2007) '"Tough on Crime": penal policy in England and Wales', in Michael Tonry (ed.), *Crime, Punishment, and Politics in a Comparative Perspective – Crime and Justice: A Review of Research 36.* Chicago: University of Chicago Press. pp. 425–70.

O'Reilly, Kenneth (1982) 'A new deal for the FBI: the Roosevelt administration, crime control, and national security', *Journal of American History*, 69: 638–58.

Oshinsky, David (1996) *'Worse Than Slavery': Parchman Farm and the Ordeal of Jim Crow Justice.* New York: The Free Press.

Padfield, Nicola (2004) 'Harmonising of sentencing: will it encourage a principled approach?', in Kauko Aromaa and Sami Nevala (eds), *Crime and Crime Control in an Integrated Europe.* Helsinki: Heuni. pp. 85–91.

Page, Joshua (2011a) 'Fear of change: prison officer unions and the perpetuation of the penal status quo', *Criminology & Public Policy*, 10 (3): 735–70.

Page, Joshua (2011b) *The Toughest Beat: Politics, Punishment, and the Prison Officers Union in California.* New York: Oxford University Press.

Pager, Devah (2003) 'The mark of a criminal record', *American Journal of Sociology,* 108: 937–75.

Pager, Devah (2007) *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration.* Chicago: University of Chicago Press.

Parenti, Christian (1999) *Lockdown America: Police and Prisons in the Age of Crisis.* London: Verso.

Pattillo, Mary, Weiman, David and Western, Bruce (eds) (2004) *Imprisoning America: The Social Effects of Mass Incarceration.* New York: Russell Sage Foundation.

Perkinson, Robert (2010) *Texas Tough: The Rise of America's Prison Empire.* New York: Metropolitan Books.

Pestritto, Ronald J. (2000) *Founding the Criminal Law: Punishment and Political Thought in the Origins of America.* DeKalb, IL: Northern Illinois University Press.

Peterson, Ruth and Krivo, Lauren (2010) *Divergent Social Worlds: Neighborhood Crime and the Racial-Spatial Divide.* New York: Russell Sage Foundation.

Pettit, Becky and Sykes, Bryan (2008) 'The demographic implications of the prison boom: evidence of

a "third demographic transition"?', unpublished manuscript.

Pettus, Katherine (2005) *Felony Disenfranchisement in America: Historical Origins, Institutional Racism, and Modern Consequences.* New York: LFB Scholarly Publishing.

Pew Center on the States (2009) *One in 31: Behind Bars in America 2008.* Washington, DC: Pew Center on the States.

Pew Center on the States (2010) *Prison Count 2010.* Washington, DC: Pew Center on the States.

Pranis, Kevin (2007) 'Doing borrowed time: the high cost of backdoor prison finance', in Tara Herivel and Paul Wright (eds), *Prison Profiteers: Who Makes Money from Mass Incarceration.* New York: The New Press. pp. 36–51.

Prisoners of the Census (2006) Too big to ignore interactive tables: Union County. Available at: http://www.prisonersofthecensus.org/toobig/countydetail.php?geo_id=05000US42119 (accessed 26 March, 2012).

Provine, Doris (2007) *Unequal Under Law: Race in the War on Drugs.* Chicago: University of Chicago Press.

Rhodes, Lorna (2004) *Total Confinement: Madness and Reason in the Maximum Security Prison.* Berkeley, CA: University of California Press.

Roberts, Dorothy (2003/2004) 'The social and moral cost of mass incarceration in African-American communities', *Stanford Law Review,* 56: 1271–305.

Roberts, Julian (1997) 'American attitudes about punishment: myth and reality', in Michael Tonry (ed.), *Sentencing Reform in Overcrowded Times: A Comparative Perspective.* New York: Oxford University Press. pp. 250–55.

Roberts, Julian and Gabor, Thomas (2004) 'Living in the shadow of the prison: lessons from the Canadian experience in decarceration', *British Journal of Criminology*, 44: 92–112.

Roberts, Julian and Stalans, Loretta (1998) 'Crime, criminal justice, and public opinion', in Michael Tonry (ed.), *The Handbook of Crime and Punishment.* Oxford: Oxford University Press. pp. 31–57.

Roberts, Julian, Stalans, Loretta, Indermauer, David, and Hough, Mike (2003) *Penal Populism and Public Opinion: Lessons from Five Countries.* Oxford: Oxford University Press.

Rothman, David (1990) *The Discovery of the Asylum: Social Order and Disorder in the New Republic,* rev. ed. Boston, MA: Little, Brown and Company.

Ruth, Henry, and Reitz, Kevin (2003) *The Challenge of Crime: Rethinking Our Response.* Cambridge, MA: Harvard University Press.

Sabol, William, West, Heather and Cooper, Matthew (2009) 'Prisoners in 2008', *Bureau of Justice Statistics Bulletin*, December. [Revised edition published June 30, 2010]

Sarabi, Brigette and Bender, Edwin (2000) *The Prison Payoff: The Role of Politics and Private Prisons in the Incarceration Boom.* Portland, OR: Western States Center and Western Prison Project.

Sarat, Austin (ed.) (1999) *The Killing State: Capital Punishment in Law, Politics, and Culture.* New York: Oxford University Press.

Sarat, Austin (2001) *When the State Kills: Capital Punishment and the American Condition.* Princeton, NJ: Princeton University Press.

Scheingold, Stuart (1998) 'Constructing the new political criminology: power, authority, and the post-liberal state', *Law and Social Inquiry,* 23: 857–95.

Schneider, Anne Larason (2006) 'An integration of path dependence, punctuated equilibrium and policy design approaches', *Political Research Quarterly*, 59: 457–70.

Schoenfeld, Heather (2009) 'The politics of prison growth: from chain gangs to work release centers and supermax prisons, Florida, 1955–2000'. PhD dissertation, Northwestern University.

Serwer, Adam (2009) 'The other black president: the NAACP confronts a new political – and racial – era', *The American Prospect*, 25 February. http://prospect.org/article/other-black-president (accessed 26 March, 2012).

Shapiro, Karen (1998) *A New South Rebellion: The Battle Against Convict Labor in the Tennessee Coalfields, 1871–1896.* Chapel Hill, NC: University of North Carolina Press.

Sharp, Elaine (1999) *The Sometime Connection: Public Opinion and Social Policy.* Albany: S.U.N.Y. Press.

Simon, Jonathan (2007) *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear.* New York: Oxford University Press.

Simon, Jonathan and Leon, Chrysanthi (2008) 'The third wave: American sex offender policies since the 1990's', in Shlomo Giora Shoham, Ori Beck and Martin Kett (eds), *The International Handbook of Penology and Criminal Justice.* Boca Raton, FL: CRC Press. pp. 733–54.

Skogan, Wesley (2006) *Police and Community in Chicago: A Tale of Three Cities.* New York: Oxford University Press.

Smith, P. (2011) 'NAACP calls for the end to the war on drugs'. Available at: http://stopthedrugwar.org/print/28244 (accessed 29 July 2011).

Snacken, Sonja (2007) 'Penal policy and practice in Belgium', in Michael Tonry (ed), *Crime, Punishment, and Politics in a Comparative Perspective – Crime and Justice: A Review of Research 36*. Chicago: University of Chicago Press. pp. 127–215.

Snider, Laureen (1994) 'Criminalization: panacea for men who assault women but anathema for corporate criminals', in Dawn H. Currie and Brian D. MacLean (eds), *Social Inequality, Social Justice*. Vancouver: Collective Press. pp. 101–24.

Sontag, Deborah (2002) 'Fierce entanglements', *New York Times Magazine,* 17 November: 52.

Stark, Evan (2004) 'Insults, injury, and injustice', *Violence Against Women*, 10: 1302–30.

Strange, Carolyn (2006) 'Pain and death: transnational perspective', *Radical History Review*, 96: 137–50.

Street, Paul (2002) *The Vicious Circle: Race, Prison, Jobs, and Community in Chicago, Illinois, and the Nation.* Chicago: Chicago Urban League, Department of Research and Planning.

Sudbury, Julia (ed.) (2005) *Global Lockdown: Race, Gender, and the Prison-Industrial Complex.* New York: Routledge.

Sutton, John (2004) 'The political economy of imprisonment in affluent Western democracies, 1960–1990', *American Sociological Review*, 69 (2): 170–89.

Talvi, Silja (2007) *Women Behind Bars: The Crisis of Women in the US Prison System.* Emeryville, CA: Seal Press.

Tonry, Michael (1995) *Malign Neglect: Race, Crime and Punishment in America.* New York: Oxford University Press.

Tonry, Michael (2007) 'Determinants of penal policy', in Michael Tonry (ed.), *Crime, Punishment, and Politics in a Comparative Perspective – Crime and Justice: A Review of Research 36*. Chicago: University of Chicago Press. pp. 1–48.

Tonry, Michael (2011) *Punishing Race: A Continuing American Dilemma.* New York: Oxford University Press.

Uggen, Christopher, Manza, Jeff and Thompson, Melissa (2006) 'Citizenship, democracy, and the civic reintegration of criminal offenders', *The Annals of the American Academy of Political & Social Sciences,* 605: 281–310.

Unnever, James and Cullen, Francis (2010) 'The social sources of Americans' punitiveness: a test of three competing models', *Criminology*, 48.1: 99–129.

Wacquant, Loïc (2000) 'The new "peculiar institution": on the prison as surrogate ghetto', *Theoretical Criminology*, 4 (3): 377–89.

Wacquant, Loïc (2008) 'Forum', in Glenn C. Loury (ed.), *Race, Incarceration, and American Values* Cambridge: MIT Press. pp. 57–72.

Wacquant, Loïc (2009) *Punishing the Poor: The Neoliberal Government of Social Insecurity.* Durham, NC: Duke University Press.

Wagner, Peter (2002) 'Importing constituents: prisoners and political clout in New York', *Prison Legal News*, 13 (10): 1–6.

Wagner, Peter (2004) 'Prison expansion made 56 counties with declining populations appear to be growing in census 2000'. Available at: http://www.prisonersofthecensus.org/news/fact-26–4-2004.html (accessed 23 May, 2008).

Walker, Donald (1988) *Penology for Profit: A History of the Texas Prison System, 1867–1912.* College Station, TX: Texas A&M University Press.

Warren, Dorian (2000) 'The intersection between voting rights and criminal justice: the national black organizational response to felon disenfranchisement', unpublished paper.

Weaver, Vesla (2006) 'Dark prison: race, rights, and the politics of punishment', paper presented at Annual Meeting of the American Political Science Association, Philadelphia. 31 Aug–3 Sept.

Weaver, Vesla (2007) 'Frontlash: race and the development of punitive crime policy', *Studies in American Political Development*, 21: 230–65.

Weaver, Vesla and Lerman, Amy (2010) 'Political consequences of the carceral state', *American Political Science Review*, 104 (4): 817–33.

Webb, Jim (2009) 'Why we must fix our prisons', *Parade*, 26 March. Available at: http://www.parade.com/news/2009/03/why-we-must-fix-our-prisons.html (accessed 26 March, 2012).

Webster, Cheryl Marie and Doob, Anthony (2007) 'Punitive trends and stable imprisonment rates in Canada', in Michael Tonry (ed.), *Crime, Punishment, and Politics in a Comparative Perspective – Crime and Justice: A Review of Research 36*. Chicago: University of Chicago Press. pp. 297–369.

West, Heather and Sabol, William (2009) 'Prison inmates at midyear 2008 – statistical tables', Washington, DC: US Department of Justice, Office of Justice Programs. March. Rev. 8 April.

Western, Bruce (2006) *Punishment and Inequality in America.* New York: Russell Sage Foundation.

Western, Bruce and Beckett, Katherine (1999) 'How unregulated is the U.S. labor market? the penal system as a labor market institution', *American Journal of Sociology*, 104: 1030–60.

Wheelock, Darren (2006) 'A jury of "peers": felon jury exclusion, racial threat, and racial inequality in United States criminal courts'. PhD dissertation, University of Minnesota.

Wheelock, Darren and Uggen, Christopher (2008) 'Punishment, crime, and poverty', in Ann Chih Lin and David R. Harris (eds), *The Colors of Poverty: Why Racial and Ethnic Disparities Persist.* New York: Russell Sage Foundation. pp. 261–92.

Whitman, James (2003) *Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe.* Oxford: Oxford University Press.

Whittier, Nancy (2009) *The Politics of Child Sexual Abuse: Emotion, Social Movements, and the State.* New York: Oxford University Press.

Wilson, James Q. (1975). *Thinking About Crime.* New York: Basic Books.

Zimring, Franklin (2003) *The Contradictions of American Capital Punishment.* New York: Oxford University Press.

Zimring, Franklin, Hawkins, Gordon and Kamin, Sam (2001) *Punishment and Democracy: Three Strikes and You're Out in California.* Oxford: Oxford University Press.

Zimring, Franklin and Johnson, David (2006) 'Public opinion and the governance of punishment in democratic political systems', *Annals of the American Academy of Political and Social Science,* 605 (May): 266–80.

Zorza, Joan and Woods, Laurie (1994) *Analysis and Policy Implications of the New Domestic Violence Police Studies.* New York: National Organization for Women Legal Defense and Education Fund.